

Regular
City Council Meeting
April 6, 2015

1. Agenda Only

Documents: [AGENDA 04-06-15.PDF](#)

2. Agenda And Packet 04-6-15 Part 1

Documents: [AGENDA AND PACKET 04-6-15 PART1.PDF](#)

3. Agenda And Packet 04-6-15 Part 2

Documents: [AGENDA AND PACKET 04-6-15 PART2.PDF](#)

4. Agenda And Packet 04-6-15 Part 3

Documents: [AGENDA AND PACKET 04-6-15 PART3.PDF](#)

5. FY16 City Manager Recommended Budget

Documents: [FY16 CITY MANAGER RECOMMENDED BUDGET.PDF](#)

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

DAVID BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

AGENDA
REGULAR CITY COUNCIL MEETING
APRIL 6, 2015

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:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) March 16, 2015

PROCLAMATIONS:

Proc 22-14/15 Proclamation Recognizing Maine's Day of Recognition for National
(Tab 2) Service, April 7, 2015 – Sponsored by Mayor Michael F. Brennan.

Proc 23-14/145 Proclamation Proclaiming National Telecommunicators Week
(Tab 3) April 12-18, 2015 – Sponsored by Councilor Edward J. Suslovic.

Proc 24-14/15 Proclamation Honoring Mary "Beth" Perlman, Barron Center, as
(Tab 4) Employee of the Month for March 2015 – Sponsored by Mayor Michael
F. Brennan.

Proc 25-14/15 Proclamation Recognizing Starting Strong Day April 11, 2015 –
(Tab 5) Sponsored by Mayor Michael F. Brennan.

Proc 26-14/15 Proclamation Recognizing Maine Marathon – Sponsored by Mayor
(Tab 6) Michael F. Brennan.

APPOINTMENTS:

Order 186-14/15 Order Appointing Wardens and Ward Clerks – Sponsored by
(Tab 7) by Katherine L. Jones, City Clerk.

This order appoints the following as Wardens and Ward Clerks for the 2015 calendar year.

<i>Warden</i>	<i>Ward Clerk</i>	<i>Precinct</i>
Denise Shames	Anne Rand	1-1
Carol Morrisette	Christopher Danse	1-2
Fred O'Keefe	Reta Morrill	1-3
MaryAnn O'Malley	Richard Mercier	2-1
Susan Lichtman	Priscilla Nelson	2-2
Elaine Spring	Michael Karatsanos	3-1
Dale Kinney	Gail Hannon	3-2
Elizabeth Cyr	Rosemary Malachowski	4-1
Dwight Glidden	Jennifer Angelone	4-2
Sherwood Merrill	Wealthy Merrill	5-1
George Smythe	John McKenney	5-2

Five affirmative votes are required for passage after public comment.

**Order 187-14/15
(Tab 8)**

Order Appointing Constable for 2015 Re: Department of Public Services – Sponsored by Sheila Hill-Christian, Acting City Manager.

This order appoints Christian Willkins, Park Ranger, for the Department of Public Services as a constable for the remaining calendar year 2015. This appointment shall be effective from the effective date of this order until 12:00 midnight, December 31, 2015.

Pursuant to Sections 20-19 and 20-19.5, Portland City Code, Christian Wilkins is not allowed to carry a firearm, concealed or unconcealed, in the performance of his duties, or to make arrests or issue parking tickets.

Staff is asking that this item be passed as an emergency in order to make it effective immediately. Seven affirmative votes are required for passage as an emergency after public comment.

CONSENT ITEMS:

**Order 188-14/15
(Tab 9)**

Order Approving Transfer of Funds Under 15 M.R.S.A. §§5824(3) and 5826(6) Re: State of Maine v. Marshall Brunnelle– Sponsored by Sheila Hill-Christian, Acting City Manager.

This order authorizes the City Council to approve the transfer of \$3,245.00 and \$487.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Marshall Brunelle. This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 189-14/15
(Tab 10)**

Order Approving Transfer of Funds Under 15 M.R.S.A. §§5824(3) and 5826(6) Re: State of Maine v. Chad Proctor – Sponsored by Sheila Hill-Christian, Acting City Manager.

This order authorizes the City Council to approve the transfer of \$1,802.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Chad Proctor. This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 190-14/15
(Tab 11)**

**Order Setting Time for Opening of Polls for Election on May 12, 2015
– Sponsored by Katherine L. Jones, City Clerk.**

Pursuant to 21-A M.R.S §626, the polls shall open at 7:00 a.m. and close at 8:00 p.m. on May 12, 2015.

**Order 191-14/15
(Tab 12)**

**Order Declaring June 11, 12, 13, & 14, 2015, as Old Port Festival –
Sponsored by Sheila Hill-Christian, Acting City Manager.**

This will be the 42nd Annual Old Port Festival. Portland's Downtown District is again organizing this year's festival and has proposed expanding the Festival to four days. Events will include the traditional Old Port Festival on Sunday, June 14, as well as events on the days leading up to Sunday, which would include working waterfront tours and concerts at the Maine State Pier and Merrill Auditorium. In addition, an Old Port Festival Ferris wheel is planned for DiMillo's Restaurant Parking Lot, Thursday through Sunday, June 11-14.

The Old Port Festival expects attendance at this year's events to reach 40,000. Details of the week's events are as follows:

- **Boundary of the Festival Zone (which will cover all 4 days: June 11, 12, 13 & 14, 2015): (festival zone within this area)**

**Congress Street (from Monument Square to Pearl Street)
Union / Temple Streets (from Commercial Street to Congress Street)
Commercial Street (from Union Street to Pearl Street), to include sidewalks on both sides of Commercial Street
Pearl Street (from Commercial to Congress)
Monument Square area and Federal Street Ext. (from Center Street to Temple Street)**

Thursday, June 11, 2015:

Concert at Maine State Pier: Kenny Wayne Shepard and Jonny Lang
Old Port Ferris Wheel - DiMillo's Parking Lot

Friday, June 12, 2015:

Concert at Maine State Pier: Rusted Root
Old Port Ferris Wheel - DiMillo's Parking Lot

Saturday, June 13, 2015:

Get to Know the Real Portland Day, Noon – 5:00 pm

Events on Saturday include Tours of the Working Waterfront, an Old Port Scavenger Hunt, and music and entertainment in the downtown and Old Port parks and squares. Some of the parks and squares would be reserved for Saturday's portion of the festival.

In addition, some parking spaces near these performance sites would be posted "No Parking."

Concert at Merrill Auditorium: Daniel Tosh
Old Port Ferris Wheel - DiMillo's Parking Lot

Sunday, June 14, 2015:

Concert at Maine State Pier: Third Eye Blind
Old Port Ferris Wheel - DiMillo's Parking Lot
Traditional Old Port Festival, 11am – 5:00 pm (No Rain Date)

This is the day for the annual festival, where streets in the Old Port (Festival Zone) are closed to vehicular traffic. The festival will include: Food Vendors, Kiddie Rides, Craft Fair, Music Stages, and Parade. 25,000+ people at night/Sunday only are expected.

**Order 192-14/15
(Tab 13)**

Order Declaring June 5, 2015 as the First Friday Art Walk Summer Edition Festival– Sponsored by Sheila Hill-Christian, Acting City Manager.

This is the third year that Portland's Downtown District (PDD) is planning a Festival coinciding with June's First Friday Art Walk (Friday, June 5, 2015). These annual events bring out thousands of people to the downtown and Old Port area.

PDD, along with Creative Portland, would again plan and organize activities around the festival. In addition to using the squares for concerts/entertainment, organizers also envision 10-30 areas along the street (parking spaces) where entertainment, activities, dances, demonstrations, and specialized artists would set up. City staff will meet with organizers prior to June 5 to discuss details and traffic management, which will include an evaluation of the preferred detour plan for METRO bus routes along the corridor; use of the 2014 FFAW traffic closure plan will be considered as a baseline and adjustments will be made based on best practices, minimal impacts to the surrounding traffic and overall safety. A special detour bus lane for Congress Street will be planned as well. The traffic control plan will consist of use of barricades positioned at many intersections, ten police officers, three parking control officers, and private security assisting with detour bus lane.

Street closures are included in the agenda backup.

**Order 193-14/15
(Tab 14)**

Order Declaring June 13, 2015 through June 20, 2015 Portland Pride! Week and Portland Pride! Celebration and Festival - Sponsored by Sheila Hill-Christian, Acting City Manager.

The Pride Festival will include a number of events taking place all week long. They have requested the following major activities be approved for use of city property, including an alcohol service area at the festival at Deering Oaks:

1. For parade assembly: The use of Monument Square, One City Center sidewalk, Preble Street (from Cumberland Ave. to Congress Street), Federal Street Extension, and Center Street (Free to Congress) on Saturday, June 20, from 10:00 am to 12:00 pm (Noon).
Parade assembly begins at 10am. Attendance – 1300 marchers (some floats).
2. For parade itself: The use of city streets – both lanes: Congress Street (Elm to High Street), High Street (Congress Street to Park Avenue) Park Avenue (from High Street to Deering Ave.), and State Street Ext.
3. Once reaching Mellen Street area, marchers enter into Deering Oaks Park, Saturday, June 20, to begin at 12:00 pm (Noon).
Estimated onlookers – 3,000: Estimated participants – 1,300 with some floats.
4. For the festival: The use of Deering Oaks Park (Park Avenue side of the Park): entertainment, displays, food and non-food vendors including a 21+ Beer Garden area from 1:00 – 7:00 pm on Saturday, June 20.
Attendance – 7,000+

(NOTE: As the festival now is held on the south side of the pond and ravine area, Farmer's Market will still be held in Deering Oaks Park that day; and farmers will end their sales at the park at the usual time – which is around 1:00 pm.)

Street closures are included in the agenda backup.

The Public Services Director is working with METRO officials on a MOU around Street Closures and impacts to the transit routes. The Pride Parade will impact some of those METRO routes. City staff and festival organizers will work with METRO on how to best address those impacts.

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

LICENSES:

**Order 194-14/15
(Tab 15)**

Order Granting Municipal Officers' Approval of El Luchador Holdings LLC d/b/a Terlingua. Application for a Class XI Restaurant/ Lounge License and Outdoor Dining on Public Property at 52 Washington Ave. - Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/2/15. New City and State Applications. This is the former location of Chez Biso Na Biso.

Five affirmative votes are required for passage after public comment.

**Order 195-14/15
(Tab 16)**

Order Granting Municipal Officers' Approval of AAA Rue Marche LLC d/b/a Timber. Application to add corporate officer to Class I FSE License with Outdoor Dining on Public Property at 106 Exchange St. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/9/15. New City and State Applications. Applicant holds current Class I FSE License.

Five affirmative votes are required for passage after public comment.

**Order 196-14/15
(Tab 17)**

Order Granting Municipal Officers' Approval of Portland House of Music and Events LLC d/b/a Portland House of Music and Events. Application for an Auditorium License with Entertainment with Dance and Outdoor Dining on Public and Private Property at 25 Temple St. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/10/15. New City and State Applications. Former location of Minott's Flower Shop.

Five affirmative votes are required for passage after public comment.

**Order 197-14/15
(Tab 18)**

Order Granting Municipal Officers' Approval of Aurora Provisions, Inc. Application of a Class I FSE License at 64 Pine Street – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/9/15. New City and State Applications. Applicant holds current FSE with preparation license.

Five affirmative votes are required for passage after public comment.

**Order 198-14/15
(Tab 19)**

Order Granting Municipal Officers' Approval of AMA, LLC d/b/a Hugo's, Eventide Oyster Co., The Honey Paw. Application for a Class XI Restaurant/Lounge License with Outdoor Dining on Public Property at 88 Middle St. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/13/15. New City and State Applications. Applicant holds a current Class XI Restaurant/Lounge license with Outdoor Dining on Public Property for Hugo's and Eventide. Applicant wishes to expand the premise and name the new dining space The Honey Paw. This is the former location of The Pepper Club.

Five affirmative votes are required for passage after public comment.

**Order 199-14/15
(Tab 20)**

Order Granting Municipal Officers' Approval of The Inn at Diamond Cove LLC d/b/a The Inn at Diamond Cove. Application for a Class IA 40+ Rooms License with Entertainment without Dance and Outdoor Dining on Private Property at 22 McKinley Court – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/9/15. New City and State Applications. This is the former location of Fort McKinley Barracks.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

**Order 200-14/15
(Tab 21)**

Order Receiving and Referring Acting City Manager's Fiscal Year 2016 Municipal Budget to the Finance Committee and Setting Date of Public Hearing on FY 2016 Municipal Budget and FY 2016 Appropriation Resolve – Sponsored by Sheila Hill-Christian, Acting City Manager.

Under this order the City Council receives the Acting City Manager's proposed budget and refers it to the Finance Committee for review. The Finance Committee will review the budget in Room 209 at 6:00 p.m. on April 9 (public hearing), 23, and 30.

The Acting 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 4, 2015, at 7:00 p.m. in City Council Chambers.

Final City Council action on the municipal budget will take place at the City Council meeting on May 18, 2015, at 7:00 p.m. There will be no public comment.

**Order 201-14/15
(Tab 22)**

Order Holding Public Hearings FY2015-2020 Housing and Urban Development Consolidated Plan, FY 2015-2016 Annual Allocation Plan and Appropriations for Community Development Block Grant Program, Home Program, and Emergency Solutions Grant Program – Sponsored by Acting City Manager, Sheila Hill-Christian.

The 2015/2016 Housing and Community Development Program will report on the Annual Action Plan to HUD an anticipated total budget of \$4,287,640 funded by a Community Development Block Grant allocation of \$1,791,064, plus \$114,500 in program income, along with \$265,446 in CDBG Housing Program Income; a HOME Consortium Program Grant allocation of \$820,832; HOME Program income of \$210,000; Lead Safe Housing Program Income of \$280,413; local Housing Trust Funds of \$643,551; and an Emergency Solutions Grant Allocation of \$161,834.

Public hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing year. The CDBG Annual Allocation Committee and the Employment Development Review Committee, appointed by Council, reviewed each application and made funding recommendations.

The committees are given an opportunity to make a presentation to the Council at this meeting, and citizens may comment on the City's plan for the use of CDBG, HOME and ESG funds.

In addition, the Public Hearings will provide an opportunity for citizens to comment on the City's FY 2015-2020 HUD 5-Year Consolidated Plan.

Our citizen participation process calls for two public hearings before adopting the Consolidated Plan and annual program.

Public hearings will be held on April 22, 2015 at the Housing and Community Development Committee Meeting at 5:30 p.m. and on May 4, 2015 at a Special City Council Meeting held at 5:00 p.m., both in Portland City Hall Council Chambers, 389 Congress Street.

**Resolve 6-14/15
(Tab 23)**

Resolution Adopting the FY 2015-2016 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 Sheila Hill-Christian, Acting City Manager.

This Resolution appropriates funds to the identified programs. This is a two-reading item. Two public hearings will be held on the Resolution to comply with federal law. On May 4, 2015, five votes will be required for passage after public comment.

**Order 202-14/15
(Tab 24)**

Order Receiving and Referring to the Finance Committee the Portland Board of Public Education's FY2016 Budget Estimate and Setting a Public Hearing Thereon– Sponsored by Sheila Hill-Christian, Acting City Manager.

Under this order the City Council receives the Portland Board of Public Education's proposed Fiscal Year budget and refers it to the Finance Committee for review and recommendations.

The City Council Finance Committee is scheduled to meet with the Portland Board of Public Education on Thursday, April 9, 2015, at 6:00 p.m. in Room 209, Portland City Hall.

The City Council public hearing on the school budget will be held at a Special City Council meeting on Monday, April 27, 2015, at 7:00 p.m. Council action on the school budget will take place Monday, May 4, 2015, at 7:00 p.m. in City Council Chambers.

Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

**Com 14-14/15
(Tab 25)**

**Communication Re: Environmental Performance Report – 2014 –
Sponsored by the Transportation, Sustainability, and Energy
Committee, Councilor David A. Marshall, Chair.**

According to the City's Environmental Performance Policy, adopted by the City Manager as an Administrative Policy of the City, and recommended by the City Council, the administration is responsible for tracking and reporting annually on the following metrics:

- Building fuel use;
- Electricity use;
- Vehicle fuel use;
- Solid waste generation; and
- Office paper (8.5 x 11) purchasing.

The 2014 Fiscal Year (FY) beginning in July 2013 and ending in June 2014 represents the second year that these metrics have been compiled into a single report. Fiscal Year 2013 represents the first year that office paper purchasing has ever been tracked. Electricity and other fuels have been tracked for a number of years and have informed energy efficiency and conservation benchmarking and the budget process for utilities year-after-year. Solid waste generation from city facilities was not tracked due to lack of data collection. Future year reports should contain solid waste generation.

In 2014, approximately 31,859,984 kwh (kilowatt hours) of electricity, 162,628 gallons of heating fuel oil, 1,036,618 therms of natural gas for heating, 385,518 gallons of gasoline and diesel fuel, 50,780 gallons of Compressed Natural Gas (CNG) and 12,205,000 sheets of 8.5 x 11 office paper are being reported.

The Greenhouse Gas (GHG) emissions from this usage is approximately 3,661 metric Tons of CO₂ equivalent (e) units from vehicle fuel, 12,281 CO₂e from electricity, and 7,319 CO₂e from heating fuel. The total, approximate GHG emissions: 23,261 metric tons of CO₂e.

The Transportation, Sustainability, and Energy Committee reviewed the Environmental Performance Report on February 18, 2015 and recommended to refer the Report to the City Council as a communication.

As a Communication this item requires no public comment or formal Council action.

**Com 15-14/15
(Tab 26)**

Communication Re: General Assistance Audit by the Maine Department of Human Services – Sponsored by Sheila Hill-Christian, Acting Manager.

The City of Portland's General Assistance Program has been audited by the Maine Department of Health and Human Services, and its report was provided to the City in February, 2015. The Acting City Manager will provide an update to the City Council on actions related to the audit findings.

As a Communication this item requires no public comment or formal Council action.

RESOLUTIONS:

UNFINISHED BUSINESS:

**Order 183-14/15
(Tab 27)**

Amendment to Portland City Code Chapter 12. Garbage, Wastes and Junk Re: Abandoned Bicycles - Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall, Chair.

Bicycles that appear to be abandoned have been locked to public property for months and in some cases years, taking up valuable space on the City's bike racks and cluttering the public right of way and public property.

Public Services staff have been unable to remove bikes identified as abandoned because there are currently no policies or procedures to legally and appropriately handle this type of property. Staff seeks the adoption of the proposed Abandoned Bicycle Ordinance by City Council so that bikes can be identified, removed, and donated to a local organization that can put them back into productive uses for the community.

City staff has received numerous inquiries and complaints from residents regarding abandoned bicycles locked on public property, particularly the bicycle racks at the Casco Bay Municipal Ferry Terminal and on Forest City Landing on Peaks Island. Residents have contacted several different City departments looking for someone to remove the bikes, but without an existing policy staff has been unable to satisfy these requests from the public.

The purpose of the ordinance is to give staff the ability to handle abandoned bikes in an effort to make space available on the City's limited bicycle racks, remove obstructions and clutter from public property, and ensure recovered bicycles are put to productive uses for the community.

The proposed ordinance would define an abandoned bicycle as any bike that has been locked in the same location on public property for one month or longer and meets two or more of the following criteria:

- i. No tires or wheels
- ii. Missing or warped wheels, handle bars, or seats
- iii. Missing, rusted, or broken chain in a state that renders it inoperative
- iv. Visible layer of dust on the seat and/or handle bars.

The ordinance also lays out the removal process by which the Department of Public Services concludes that a bicycle meets the established definition of an abandoned bicycle and tags it with a Removal Notice. The notice will list the date by which the bicycle must be moved by the owner, which will be within 72 hours of being tagged.

All bicycles that are not moved and remain unclaimed within the 72-hour notice period will be removed by Public Services staff and stored for a minimum of 30 days.

The City will not be responsible for damages to locks or bicycles that are removed under this policy. If unclaimed after 30 days, the bicycles will be donated to a local non-profit partner that specializes in refurbishing bicycles.

The Transportation, Sustainability, and Energy Committee met on February 18, 2015, and voted unanimously to forward this item to the City Council with approval for passage.

This item must be read on two separate days. It was given a first reading on March 16th. Five affirmative votes are required for passage after public comment.

**Order 184-14/15
(Tab 28)**

**Amendment to Portland City Code Chapter 14. Land Use Re: 58
Fore Street – Sponsored by the Planning Board, Stuart O'Brien, Chair.**

The Planning Board recommends a zoning map amendment to change 58 Fore Street and immediately adjacent property, including a 50' wide strip of land owned by the State of Maine, two city-owned parking areas, and submerged lands, that are currently zoned Waterfront Special Use Zone (WSUZ) to a combination of both B-6 and the Eastern Waterfront Port Zone (EWPZ), as well as associated zoning and site plan ordinance text changes, and an amendment to the B-6 Building Height Overlay & Building Envelopes map.

An application was submitted by CPB2 LLC for zoning map and text amendments for property at 58 Fore Street, the site of the Portland Company complex, and adjacent property. The property is currently zoned Waterfront Special Use Zone, and includes warehouses, storage buildings, and a marina with associated parking and laydown areas.

The zones being applied for in place of WSUZ are the B-6 Eastern Waterfront Mixed Zone, and the Eastern Waterfront Port Zone, so that the applicant can subsequently apply for a site plan and subdivision approval for a range of marine-related, residential and commercial uses. The application was heard by the Planning Board on October 21st, November 18th, February 10th, and February 24th.

On February 24, 2015, the Planning Board voted unanimously, 6-0 (Boepple absent) that the proposed map amendments from WSUZ to B-6 and the Eastern Waterfront Port Zone, the amendment to the B-6 Building Height Overlay & Building Envelopes map, and the text amendments to the WSUZ, B-6, EWPZ, Site Plan and Shoreland Overlay zone for 58 Fore Street are consistent with the Comprehensive Plan and recommended adoption of the proposed amendment to the City Council.

This item must be read on two separate days. It was given a first reading on March 16, 2015. Five affirmative votes are required for passage after public comment.

**Order 185-14/15
(Tab 29)**

**Amendment to Zoning Map Re: 58 Fore Street – Sponsored by
– Sponsored by the Planning Board, Stuart O’Brien, Chair.**

This item is a companion Order to Order 185-14/15 above.

This item must be read on two separate days. It was given a first reading on March 16th. Five affirmative votes are required for passage after public comment.

ORDERS:

**Order 203-14/15
(Tab 30)**

**Order Discontinuing a Portion of Cleeve Street – Sponsored by the
Planning Board, Stuart O’Brien, Chair.**

The Diamond Island Association (DIA) has petitioned the city for the discontinuance of a portion of Cleeve Street on the west side of Great Diamond Island. The applicant has complemented the petition with a proposal to provide a 25-foot-wide easement for pedestrian and other limited access over the southern half of the discontinued portion of Cleeve Street. This petition is made in accordance with state statute (Title 23 M.R.S.A. Section 3026).

The city formally accepted the Cleeve Street right-of-way in a street acceptance record of November 1892. It appears that by this point, Cleeve Street’s more eastern portions had been constructed as public dirt roads; for unknown reasons the Cleeve Street right-of-way nearest the island’s western shore, from Crescent Avenue west, was never developed as a roadway.

There is some evidence that, at the time of the street's acceptance, portions of Elwell Hall, a building now owned and maintained by the DIA as a community center and library, encroached into the right-of-way. The right-of-way is currently grassed, and provides a means of access to "Store Beach," a public beach on the island's western shore.

The petition requests the discontinuance of the Cleeve Street right-of-way between the westerly boundary of the Crescent Avenue right-of-way and the easterly boundary of the Bay Avenue right-of-way, a linear distance of approximately 220 feet. In addition, the proposal sweeps in a triangle of land where the Cleeve Street and Diamond Avenue rights-of-way meet to the north. The applicant also proposes a 25-foot wide public access easement for the purposes of pedestrians, bicycles, golf carts, and wheelchairs over the southern half of the existing right-of-way. Thus, under the current proposal, the city would relinquish all public rights, save for limited access, to the right-of-way. The city's maintenance obligations for the right-of-way would also be terminated.

On March 10, 2014, the Planning Board voted 6-0 (Dundon absent) to recommend the discontinuance to the City Council.

Five affirmative votes are required for passage after public comment.

**Order 204-14/15
(Tab 31)**

Order Approving the Collective Bargaining Agreement with the Communications Employee Association - Sponsored by Sheila Hill-Christian, Acting City Manager.

Staff has reached a tentative agreement with the Communications Employee Association on a successor one year contract. The prior collective bargaining agreement expired June 30, 2013.

The Communications Employee Association, which is comprised of 30 Telecommunicators, Fire Alarm Specialist, Radio Systems Specialist and Telecommunications Supervisors, has reached a tentative agreement with the City. The Administration is requesting a first reading on April 6, 2015. The tentative agreement is within the guidance received by the City Council on February 23, 2015.

The City and the Communications Unit have reached a tentative agreement on a three (3) year contract with a 1.0% general wage increase for Fiscal Year (FY) 2014 retroactive to July 7, 2013; a 1.0% general wage increase retroactive to July 6, 2014; a 1.0% general wage increase retroactive to January 4, 2015 and a 3.0% general wage increase effective July 5, 2015. The duration of the contract and the COLA recommendations are consistent with the unified bargaining strategy previously discussed with the Council.

The contract term is July 2013, through June 30, 2016.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct cost for the three year agreement is approximately \$165,000 of which \$79,000 has already been approved and appropriated through the FY 2014 and FY 2015 budget process.

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

**Order 205-14/15
(Tab 32)**

Order Authorizing General Obligation Bonds to Finance a Portion of the City's 2016 Capital Improvement Program in an Amount not to Exceed \$18,731,000 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order authorizes the incurring of indebtedness by the City of Portland through the issuance of General Obligation Bonds in the aggregate amount of \$18,731,000 pursuant to the City Charter. The specific items for which the bond proceeds will be expended are set forth in detail in the accompanying Appropriation Order.

The order also finds, determines, and declares, with respect to the Communication System Replacement Project, that an emergency exists with respect to the need to acquire and install such Communication System Replacement Project within the meaning of Section 16(b)(iii) of the City Charter as follows:

- The current public safety radio communication system was installed approximately 15 years ago and is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the City Council finds, determines and declares that emergency circumstances exist under Section 16(b)(iii) of the City Charter requiring approval of the Communication System Replacement project and issuance of the City's bonds therefore without referendum approval.

This order also authorizes the Director of Finance to prepare, issue, and sell the bonds and also authorizes the Director of Finance, Mayor and Clerk, and other proper officials of the City to perform whatever other acts may be necessary or desirable to effect the issuance, sale, and delivery of the bonds.

Finally, the order requires that sufficient funds for the annual payments of principal and interest on the bonds and any notes issued be included in the tax levy each year until the debt represented by the bonds and any notes is extinguished.

Draft minutes of the Finance Committee meeting held on March 26, 2015 are included in the agenda backup. The Committee voted 3-1 to forward this item to the City Council with a recommendation for passage and to declare the Communication System Replacement Project an emergency (3-1 vote).

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

**Order 206-13/14
(Tab 33)**

Order Appropriating \$18,731,000 of Bond Proceeds for the City's 2016 Capital Improvement Program- Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order appropriates the new general obligation bond proceeds for the following described capital projects and all other related expenses summarized by category as follows:

Transportation Projects	\$1,600,000
Facilities Projects	\$2,705,000
Parks, Fields, & Trails Projects	\$1,140,000
Equipment & Vehicles Projects	\$9,135,000
Sewer/Stormwater Projects	\$4,005,000
Public Art Projects	\$73,000
Land Bank Projects	\$73,000

Draft minutes of the Finance Committee meeting held on March 26, 2015 are included in the agenda backup. The Committee voted 3-1 to forward this item to the City Council with a recommendation for passage.

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

AMENDMENTS:

**Order 207-14/15
(Tab 34)**

Amendment to Portland City Code Chapter 17 (Offenses, Miscellaneous Provisions) Article V (Regulation of Tobacco) - Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.

The Public Safety, Health and Human Services Committee asked the Public Health Division to compile information regarding electronic nicotine delivery systems (ENDS) for consideration by the committee to include ENDS in the definition of smoking products in City ordinance.

Staff reviewed the City's existing ordinances related to smoking in public spaces, the actions of other states, local municipalities and health organizations, and the information behind the potential dangers of this relatively new tobacco product.

ENDS are currently not regulated by the US Food and Drug Administration (FDA), nor have they been fully studied for their content and health effects.

Concerns about their potential impact on youth tobacco use are also emerging.

Title 22 Chapter 262-A *Maine's Retail Tobacco Sales* laws define electronic cigarettes as tobacco products, which clarifies that e-cigarettes cannot be sold to any person under 18 years of age, and possession and use by minors are prohibited. Maine law does not currently prohibit the use of e-cigarettes in any location.

In 2014, more teens used e-cigarettes than traditional cigarettes, or any other tobacco product. Over 90% of lifetime smokers start before age 18, thus, youth use of a tobacco product and intention to use cigarettes are important public health data.

There is also concern that the use of ENDS in public places such as restaurants, hospitals, and workplaces may cause confusion and thus hinder enforcement of existing smoke-free laws, perhaps even renormalizing smoking in places that were traditionally smoke-free.

As of January 1, 2015, 274 municipalities have passed laws restricting e-cigarette use in 100% smoke-free venues.

The Public Safety, Health and Human Service Department met on March 10, 2015, and voted unanimously to forward this item to the City Council with a recommendation for approval.

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

**Order 208-14/15
(Tab 35)**

Amendment to Portland City Code Chapter 11 (Food and Food Handlers) – Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.

The reasons for submission are to: 1) Adopt the most recent version of the Maine Food Code, 2) specify the loss of hot water as an example of an Imminent Health Hazard (IHH), 3) clearly link raw food menu items and the reminder of the health risks, and 4) require businesses to show proof of a Certified Food Protection Manager (CFPM) before operating and during subsequent inspections.

Adopting the 2013 Maine Food Code will keep us current with the education and enforcement of food code regulations. Specifying the loss of hot water as an IHH will prevent any further confusion if an extended loss of water requires a complete loss of hot and cold water. More visibly linking the presence of raw food items on restaurant menus and the reminder of increased health risks from their consumption will raise the public's awareness and may lead to a decrease in the number of new foodborne illness cases.

Finally, requiring proof of a CFPM before businesses opens and during subsequent inspections will save city staff time and assures that all new businesses start and maintain at least a common basic level of food safety knowledge.

The Public Safety, Health and Human Services Committee met on March 10, 2015, and voted unanimously to forward this item to the City Council with a recommendation for passage.

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

**Order 209-14/15
(Tab 36)**

Amendment to Portland City Code Chapter 14. Land Use Re: R6 and R-6A Zones – Sponsored by the Planning Board, Stuart O'Brien, Chair.

The Planning Board recommends text amendments to the R-6 Residential zone. These include changes to the existing dimensional standards, parking standards, clarifying language linking the R-6 standards to the Design Manual for review of residential projects; standards regarding lots of record, and elimination of the small residential lot development provision. Changes also include a conversion of the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance.

The dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, East Bayside, Bayside, and Libbytown. These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone. Though the pattern of the peninsula's built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. Current zoning renders the vast majority of parcels in the R-6 zone non-conforming.

These changes bring Portland's zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners.

The Planning Board met on March 10, 2015, and voted unanimously, 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for passage.

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

**Order 210-14/15
(Tab 37)**

Fourth Amendment to Conditional Zone Agreement Re: Property in the Vicinity of Diamond Cove/Great Diamond Island – Sponsored by the Planning Board, Stuart O'Brien, Chair.

The Planning Board recommends amendments to an existing IR-3 conditional zoning agreement (CZA) for Fort McKinley, Great Diamond Island, to the City Council. The amendment was requested by the City's Department of Public Services to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years.

The amendments include a minor change to the boundary of the designated open space near the "laundry building" and a text amendment/plan reference to confirm the use is an exception to the limitations. The 1985 CZA anticipated the possibility of a municipally operated island solid waste disposal facility being created.

Current waste management on the island consists of a solid waste truck parked on property on Great Diamond Island that is frequently transported off the island. This arrangement is not sufficiently or effectively serving the needs of the island's residents and is costly and inefficient to operate. Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the Diamond Cove Homeowners Association (DCHA) – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island's waste would allow more efficient consolidation and transportation. The DCHA and the City have negotiated a lease to allow the construction of a municipal transfer station on land owned by the DCHA. The site was chosen to be near the barge landing, to minimize truck travel and minimize impact on old growth trees and open space; the agreed site impacts .9 acre of open space and this requires the amendment to the 1985 CZA and associated Open Space Designation.

The Planning Board met on March 24, 2015, and voted 4-0 (O'Brien abstaining; Eaton and Morrisette absent) to forward this item to the City Council with a recommendation for approval.

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

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

DAVID BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK(A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

AGENDA
REGULAR CITY COUNCIL MEETING
APRIL 6, 2015

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:

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) March 16, 2015

PROCLAMATIONS:

Proc 22-14/15 Proclamation Recognizing Maine's Day of Recognition for National
(Tab 2) Service, April 7, 2015 – Sponsored by Mayor Michael F. Brennan.

Proc 23-14/145 Proclamation Proclaiming National Telecommunicators Week
(Tab 3) April 12-18, 2015 – Sponsored by Councilor Edward J. Suslovic.

Proc 24-14/15 Proclamation Honoring Mary "Beth" Perlman, Barron Center, as
(Tab 4) Employee of the Month for March 2015 – Sponsored by Mayor Michael
F. Brennan.

Proc 25-14/15 Proclamation Recognizing Starting Strong Day April 11, 2015 –
(Tab 5) Sponsored by Mayor Michael F. Brennan.

Proc 26-14/15 Proclamation Recognizing Maine Marathon – Sponsored by Mayor
(Tab 6) Michael F. Brennan.

APPOINTMENTS:

Order 186-14/15 Order Appointing Wardens and Ward Clerks – Sponsored by
(Tab 7) by Katherine L. Jones, City Clerk.

This order appoints the following as Wardens and Ward Clerks for the 2015 calendar year.

<i>Warden</i>	<i>Ward Clerk</i>	<i>Precinct</i>
Denise Shames	Anne Rand	1-1
Carol Morrisette	Christopher Danse	1-2
Fred O'Keefe	Reta Morrill	1-3
MaryAnn O'Malley	Richard Mercier	2-1
Susan Lichtman	Priscilla Nelson	2-2
Elaine Spring	Michael Karatsanos	3-1
Dale Kinney	Gail Hannon	3-2
Elizabeth Cyr	Rosemary Malachowski	4-1
Dwight Glidden	Jennifer Angelone	4-2
Sherwood Merrill	Wealthy Merrill	5-1
George Smythe	John McKenney	5-2

Five affirmative votes are required for passage after public comment.

**Order 187-14/15
(Tab 8)**

Order Appointing Constable for 2015 Re: Department of Public Services – Sponsored by Sheila Hill-Christian, Acting City Manager.

This order appoints Christian Willkins, Park Ranger, for the Department of Public Services as a constable for the remaining calendar year 2015. This appointment shall be effective from the effective date of this order until 12:00 midnight, December 31, 2015.

Pursuant to Sections 20-19 and 20-19.5, Portland City Code, Christian Wilkins is not allowed to carry a firearm, concealed or unconcealed, in the performance of his duties, or to make arrests or issue parking tickets.

Staff is asking that this item be passed as an emergency in order to make it effective immediately. Seven affirmative votes are required for passage as an emergency after public comment.

CONSENT ITEMS:

**Order 188-14/15
(Tab 9)**

Order Approving Transfer of Funds Under 15 M.R.S.A. §§5824(3) and 5826(6) Re: State of Maine v. Marshall Brunnelle– Sponsored by Sheila Hill-Christian, Acting City Manager.

This order authorizes the City Council to approve the transfer of \$3,245.00 and \$487.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Marshall Brunelle. This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 189-14/15
(Tab 10)**

Order Approving Transfer of Funds Under 15 M.R.S.A. §§5824(3) and 5826(6) Re: State of Maine v. Chad Proctor – Sponsored by Sheila Hill-Christian, Acting City Manager.

This order authorizes the City Council to approve the transfer of \$1,802.00 in forfeited assets from the State of Maine to the City of Portland from the case of the State of Maine v. Chad Proctor. This money was seized during a drug investigation conducted by the M.D.E.A. in conjunction with the Portland Police Department. The money will be deposited into the Portland Police Department's drug investigation account. Money in that account is used primarily for drug investigations, training, and equipment.

**Order 190-14/15
(Tab 11)**

**Order Setting Time for Opening of Polls for Election on May 12, 2015
– Sponsored by Katherine L. Jones, City Clerk.**

Pursuant to 21-A M.R.S §626, the polls shall open at 7:00 a.m. and close at 8:00 p.m. on May 12, 2015.

**Order 191-14/15
(Tab 12)**

**Order Declaring June 11, 12, 13, & 14, 2015, as Old Port Festival –
Sponsored by Sheila Hill-Christian, Acting City Manager.**

This will be the 42nd Annual Old Port Festival. Portland's Downtown District is again organizing this year's festival and has proposed expanding the Festival to four days. Events will include the traditional Old Port Festival on Sunday, June 14, as well as events on the days leading up to Sunday, which would include working waterfront tours and concerts at the Maine State Pier and Merrill Auditorium. In addition, an Old Port Festival Ferris wheel is planned for DiMillo's Restaurant Parking Lot, Thursday through Sunday, June 11-14.

The Old Port Festival expects attendance at this year's events to reach 40,000. Details of the week's events are as follows:

- **Boundary of the Festival Zone (which will cover all 4 days: June 11, 12, 13 & 14, 2015): (festival zone within this area)**

Congress Street (from Monument Square to Pearl Street)

Union / Temple Streets (from Commercial Street to Congress Street)

Commercial Street (from Union Street to Pearl Street), to include sidewalks on both sides of Commercial Street

Pearl Street (from Commercial to Congress)

Monument Square area and Federal Street Ext. (from Center Street to Temple Street)

Thursday, June 11, 2015:

Concert at Maine State Pier: Kenny Wayne Shepard and Jonny Lang
Old Port Ferris Wheel - DiMillo's Parking Lot

Friday, June 12, 2015:

Concert at Maine State Pier: Rusted Root
Old Port Ferris Wheel - DiMillo's Parking Lot

Saturday, June 13, 2015:

Get to Know the Real Portland Day, Noon – 5:00 pm

Events on Saturday include Tours of the Working Waterfront, an Old Port Scavenger Hunt, and music and entertainment in the downtown and Old Port parks and squares. Some of the parks and squares would be reserved for Saturday's portion of the festival.

In addition, some parking spaces near these performance sites would be posted "No Parking."

Concert at Merrill Auditorium: Daniel Tosh
Old Port Ferris Wheel - DiMillo's Parking Lot

Sunday, June 14, 2015:

Concert at Maine State Pier: Third Eye Blind
Old Port Ferris Wheel - DiMillo's Parking Lot
Traditional Old Port Festival, 11am – 5:00 pm (No Rain Date)

This is the day for the annual festival, where streets in the Old Port (Festival Zone) are closed to vehicular traffic. The festival will include: Food Vendors, Kiddie Rides, Craft Fair, Music Stages, and Parade. 25,000+ people at night/Sunday only are expected.

**Order 192-14/15
(Tab 13)**

Order Declaring June 5, 2015 as the First Friday Art Walk Summer Edition Festival— Sponsored by Sheila Hill-Christian, Acting City Manager.

This is the third year that Portland's Downtown District (PDD) is planning a Festival coinciding with June's First Friday Art Walk (Friday, June 5, 2015). These annual events bring out thousands of people to the downtown and Old Port area.

PDD, along with Creative Portland, would again plan and organize activities around the festival. In addition to using the squares for concerts/entertainment, organizers also envision 10-30 areas along the street (parking spaces) where entertainment, activities, dances, demonstrations, and specialized artists would set up. City staff will meet with organizers prior to June 5 to discuss details and traffic management, which will include an evaluation of the preferred detour plan for METRO bus routes along the corridor; use of the 2014 FFAW traffic closure plan will be considered as a baseline and adjustments will be made based on best practices, minimal impacts to the surrounding traffic and overall safety. A special detour bus lane for Congress Street will be planned as well. The traffic control plan will consist of use of barricades positioned at many intersections, ten police officers, three parking control officers, and private security assisting with detour bus lane.

Street closures are included in the agenda backup.

**Order 193-14/15
(Tab 14)**

**Order Declaring June 13, 2015 through June 20, 2015 Portland Pride!
Week and Portland Pride! Celebration and Festival - Sponsored by
Sheila Hill-Christian, Acting City Manager.**

The Pride Festival will include a number of events taking place all week long. They have requested the following major activities be approved for use of city property, including an alcohol service area at the festival at Deering Oaks:

1. For parade assembly: The use of Monument Square, One City Center sidewalk, Preble Street (from Cumberland Ave. to Congress Street), Federal Street Extension, and Center Street (Free to Congress) on Saturday, June 20, from 10:00 am to 12:00 pm (Noon).
Parade assembly begins at 10am. Attendance – 1300 marchers (some floats).
2. For parade itself: The use of city streets – both lanes: Congress Street (Elm to High Street), High Street (Congress Street to Park Avenue) Park Avenue (from High Street to Deering Ave.), and State Street Ext.
3. Once reaching Mellen Street area, marchers enter into Deering Oaks Park, Saturday, June 20, to begin at 12:00 pm (Noon).
Estimated onlookers – 3,000: Estimated participants – 1,300 with some floats.
4. For the festival: The use of Deering Oaks Park (Park Avenue side of the Park): entertainment, displays, food and non-food vendors including a 21+ Beer Garden area from 1:00 – 7:00 pm on Saturday, June 20.
Attendance – 7,000+

(NOTE: As the festival now is held on the south side of the pond and ravine area, Farmer's Market will still be held in Deering Oaks Park that day; and farmers will end their sales at the park at the usual time – which is around 1:00 pm.)

Street closures are included in the agenda backup.

The Public Services Director is working with METRO officials on a MOU around Street Closures and impacts to the transit routes. The Pride Parade will impact some of those METRO routes. City staff and festival organizers will work with METRO on how to best address those impacts.

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

LICENSES:

**Order 194-14/15
(Tab 15)**

**Order Granting Municipal Officers' Approval of El Luchador Holdings
LLC d/b/a Terlingua. Application for a Class XI Restaurant/ Lounge
License and Outdoor Dining on Public Property at 52 Washington Ave.
- Sponsored by Katherine L. Jones, City Clerk.**

Application filed 3/2/15. New City and State Applications. This is the former location of Chez Biso Na Biso.

Five affirmative votes are required for passage after public comment.

**Order 195-14/15
(Tab 16)**

Order Granting Municipal Officers' Approval of AAA Rue Marche LLC d/b/a Timber. Application to add corporate officer to Class I FSE License with Outdoor Dining on Public Property at 106 Exchange St. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/9/15. New City and State Applications. Applicant holds current Class I FSE License.

Five affirmative votes are required for passage after public comment.

**Order 196-14/15
(Tab 17)**

Order Granting Municipal Officers' Approval of Portland House of Music and Events LLC d/b/a Portland House of Music and Events. Application for an Auditorium License with Entertainment with Dance and Outdoor Dining on Public and Private Property at 25 Temple St. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/10/15. New City and State Applications. Former location of Minott's Flower Shop.

Five affirmative votes are required for passage after public comment.

**Order 197-14/15
(Tab 18)**

Order Granting Municipal Officers' Approval of Aurora Provisions, Inc. Application of a Class I FSE License at 64 Pine Street – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/9/15. New City and State Applications. Applicant holds current FSE with preparation license.

Five affirmative votes are required for passage after public comment.

**Order 198-14/15
(Tab 19)**

Order Granting Municipal Officers' Approval of AMA, LLC d/b/a Hugo's, Eventide Oyster Co., The Honey Paw. Application for a Class XI Restaurant/Lounge License with Outdoor Dining on Public Property at 88 Middle St. – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/13/15. New City and State Applications. Applicant holds a current Class XI Restaurant/Lounge license with Outdoor Dining on Public Property for Hugo's and Eventide. Applicant wishes to expand the premise and name the new dining space The Honey Paw. This is the former location of The Pepper Club.

Five affirmative votes are required for passage after public comment.

**Order 199-14/15
(Tab 20)**

Order Granting Municipal Officers' Approval of The Inn at Diamond Cove LLC d/b/a The Inn at Diamond Cove. Application for a Class IA 40+ Rooms License with Entertainment without Dance and Outdoor Dining on Private Property at 22 McKinley Court – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/9/15. New City and State Applications. This is the former location of Fort McKinley Barracks.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

**Order 200-14/15
(Tab 21)**

Order Receiving and Referring Acting City Manager's Fiscal Year 2016 Municipal Budget to the Finance Committee and Setting Date of Public Hearing on FY 2016 Municipal Budget and FY 2016 Appropriation Resolve – Sponsored by Sheila Hill-Christian, Acting City Manager.

Under this order the City Council receives the Acting City Manager's proposed budget and refers it to the Finance Committee for review. The Finance Committee will review the budget in Room 209 at 6:00 p.m. on April 9 (public hearing), 23, and 30.

The Acting 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 4, 2015, at 7:00 p.m. in City Council Chambers.

Final City Council action on the municipal budget will take place at the City Council meeting on May 18, 2015, at 7:00 p.m. There will be no public comment.

**Order 201-14/15
(Tab 22)**

Order Holding Public Hearings FY2015-2020 Housing and Urban Development Consolidated Plan, FY 2015-2016 Annual Allocation Plan and Appropriations for Community Development Block Grant Program, Home Program, and Emergency Solutions Grant Program – Sponsored by Acting City Manager, Sheila Hill-Christian.

The 2015/2016 Housing and Community Development Program will report on the Annual Action Plan to HUD an anticipated total budget of \$4,287,640 funded by a Community Development Block Grant allocation of \$1,791,064, plus \$114,500 in program income, along with \$265,446 in CDBG Housing Program Income; a HOME Consortium Program Grant allocation of \$820,832; HOME Program income of \$210,000; Lead Safe Housing Program Income of \$280,413; local Housing Trust Funds of \$643,551; and an Emergency Solutions Grant Allocation of \$161,834.

Public hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing year. The CDBG Annual Allocation Committee and the Employment Development Review Committee, appointed by Council, reviewed each application and made funding recommendations.

The committees are given an opportunity to make a presentation to the Council at this meeting, and citizens may comment on the City's plan for the use of CDBG, HOME and ESG funds.

In addition, the Public Hearings will provide an opportunity for citizens to comment on the City's FY 2015-2020 HUD 5-Year Consolidated Plan.

Our citizen participation process calls for two public hearings before adopting the Consolidated Plan and annual program.

Public hearings will be held on April 22, 2015 at the Housing and Community Development Committee Meeting at 5:30 p.m. and on May 4, 2015 at a Special City Council Meeting held at 5:00 p.m., both in Portland City Hall Council Chambers, 389 Congress Street.

**Resolve 6-14/15
(Tab 23)**

Resolution Adopting the FY 2015-2016 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 Sheila Hill-Christian, Acting City Manager.

This Resolution appropriates funds to the identified programs. This is a two-reading item. Two public hearings will be held on the Resolution to comply with federal law. On May 4, 2015, five votes will be required for passage after public comment.

**Order 202-14/15
(Tab 24)**

Order Receiving and Referring to the Finance Committee the Portland Board of Public Education's FY2016 Budget Estimate and Setting a Public Hearing Thereon– Sponsored by Sheila Hill-Christian, Acting City Manager.

Under this order the City Council receives the Portland Board of Public Education's proposed Fiscal Year budget and refers it to the Finance Committee for review and recommendations.

The City Council Finance Committee is scheduled to meet with the Portland Board of Public Education on Thursday, April 9, 2015, at 6:00 p.m. in Room 209, Portland City Hall.

The City Council public hearing on the school budget will be held at a Special City Council meeting on Monday, April 27, 2015, at 7:00 p.m. Council action on the school budget will take place Monday, May 4, 2015, at 7:00 p.m. in City Council Chambers.

Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

**Com 14-14/15
(Tab 25)**

**Communication Re: Environmental Performance Report – 2014 –
Sponsored by the Transportation, Sustainability, and Energy
Committee, Councilor David A. Marshall, Chair.**

According to the City's Environmental Performance Policy, adopted by the City Manager as an Administrative Policy of the City, and recommended by the City Council, the administration is responsible for tracking and reporting annually on the following metrics:

- Building fuel use;
- Electricity use;
- Vehicle fuel use;
- Solid waste generation; and
- Office paper (8.5 x 11) purchasing.

The 2014 Fiscal Year (FY) beginning in July 2013 and ending in June 2014 represents the second year that these metrics have been compiled into a single report. Fiscal Year 2013 represents the first year that office paper purchasing has ever been tracked. Electricity and other fuels have been tracked for a number of years and have informed energy efficiency and conservation benchmarking and the budget process for utilities year-after-year. Solid waste generation from city facilities was not tracked due to lack of data collection. Future year reports should contain solid waste generation.

In 2014, approximately 31,859,984 kwh (kilowatt hours) of electricity, 162,628 gallons of heating fuel oil, 1,036,618 therms of natural gas for heating, 385,518 gallons of gasoline and diesel fuel, 50,780 gallons of Compressed Natural Gas (CNG) and 12,205,000 sheets of 8.5 x 11 office paper are being reported.

The Greenhouse Gas (GHG) emissions from this usage is approximately 3,661 metric Tons of CO₂ equivalent (e) units from vehicle fuel, 12,281 CO₂e from electricity, and 7,319 CO₂e from heating fuel. The total, approximate GHG emissions: 23,261 metric tons of CO₂e.

The Transportation, Sustainability, and Energy Committee reviewed the Environmental Performance Report on February 18, 2015 and recommended to refer the Report to the City Council as a communication.

As a Communication this item requires no public comment or formal Council action.

**Com 15-14/15
(Tab 26)**

Communication Re: General Assistance Audit by the Maine Department of Human Services – Sponsored by Sheila Hill-Christian, Acting Manager.

The City of Portland's General Assistance Program has been audited by the Maine Department of Health and Human Services, and its report was provided to the City in February, 2015. The Acting City Manager will provide an update to the City Council on actions related to the audit findings.

As a Communication this item requires no public comment or formal Council action.

RESOLUTIONS:

UNFINISHED BUSINESS:

**Order 183-14/15
(Tab 27)**

Amendment to Portland City Code Chapter 12. Garbage, Wastes and Junk Re: Abandoned Bicycles - Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall, Chair.

Bicycles that appear to be abandoned have been locked to public property for months and in some cases years, taking up valuable space on the City's bike racks and cluttering the public right of way and public property.

Public Services staff have been unable to remove bikes identified as abandoned because there are currently no policies or procedures to legally and appropriately handle this type of property. Staff seeks the adoption of the proposed Abandoned Bicycle Ordinance by City Council so that bikes can be identified, removed, and donated to a local organization that can put them back into productive uses for the community.

City staff has received numerous inquiries and complaints from residents regarding abandoned bicycles locked on public property, particularly the bicycle racks at the Casco Bay Municipal Ferry Terminal and on Forest City Landing on Peaks Island. Residents have contacted several different City departments looking for someone to remove the bikes, but without an existing policy staff has been unable to satisfy these requests from the public.

The purpose of the ordinance is to give staff the ability to handle abandoned bikes in an effort to make space available on the City's limited bicycle racks, remove obstructions and clutter from public property, and ensure recovered bicycles are put to productive uses for the community.

The proposed ordinance would define an abandoned bicycle as any bike that has been locked in the same location on public property for one month or longer and meets two or more of the following criteria:

- i. No tires or wheels
- ii. Missing or warped wheels, handle bars, or seats
- iii. Missing, rusted, or broken chain in a state that renders it inoperative
- iv. Visible layer of dust on the seat and/or handle bars.

The ordinance also lays out the removal process by which the Department of Public Services concludes that a bicycle meets the established definition of an abandoned bicycle and tags it with a Removal Notice. The notice will list the date by which the bicycle must be moved by the owner, which will be within 72 hours of being tagged.

All bicycles that are not moved and remain unclaimed within the 72-hour notice period will be removed by Public Services staff and stored for a minimum of 30 days.

The City will not be responsible for damages to locks or bicycles that are removed under this policy. If unclaimed after 30 days, the bicycles will be donated to a local non-profit partner that specializes in refurbishing bicycles.

The Transportation, Sustainability, and Energy Committee met on February 18, 2015, and voted unanimously to forward this item to the City Council with approval for passage.

This item must be read on two separate days. It was given a first reading on March 16th. Five affirmative votes are required for passage after public comment.

**Order 184-14/15
(Tab 28)**

**Amendment to Portland City Code Chapter 14. Land Use Re: 58
Fore Street – Sponsored by the Planning Board, Stuart O'Brien, Chair.**

The Planning Board recommends a zoning map amendment to change 58 Fore Street and immediately adjacent property, including a 50' wide strip of land owned by the State of Maine, two city-owned parking areas, and submerged lands, that are currently zoned Waterfront Special Use Zone (WSUZ) to a combination of both B-6 and the Eastern Waterfront Port Zone (EWPZ), as well as associated zoning and site plan ordinance text changes, and an amendment to the B-6 Building Height Overlay & Building Envelopes map.

An application was submitted by CPB2 LLC for zoning map and text amendments for property at 58 Fore Street, the site of the Portland Company complex, and adjacent property. The property is currently zoned Waterfront Special Use Zone, and includes warehouses, storage buildings, and a marina with associated parking and laydown areas.

The zones being applied for in place of WSUZ are the B-6 Eastern Waterfront Mixed Zone, and the Eastern Waterfront Port Zone, so that the applicant can subsequently apply for a site plan and subdivision approval for a range of marine-related, residential and commercial uses. The application was heard by the Planning Board on October 21st, November 18th, February 10th, and February 24th.

On February 24, 2015, the Planning Board voted unanimously, 6-0 (Boepple absent) that the proposed map amendments from WSUZ to B-6 and the Eastern Waterfront Port Zone, the amendment to the B-6 Building Height Overlay & Building Envelopes map, and the text amendments to the WSUZ, B-6, EWPZ, Site Plan and Shoreland Overlay zone for 58 Fore Street are consistent with the Comprehensive Plan and recommended adoption of the proposed amendment to the City Council.

This item must be read on two separate days. It was given a first reading on March 16, 2015. Five affirmative votes are required for passage after public comment.

**Order 185-14/15
(Tab 29)**

**Amendment to Zoning Map Re: 58 Fore Street – Sponsored by
– Sponsored by the Planning Board, Stuart O’Brien, Chair.**

This item is a companion Order to Order 185-14/15 above.

This item must be read on two separate days. It was given a first reading on March 16th. Five affirmative votes are required for passage after public comment.

ORDERS:

**Order 203-14/15
(Tab 30)**

**Order Discontinuing a Portion of Cleeve Street – Sponsored by the
Planning Board, Stuart O’Brien, Chair.**

The Diamond Island Association (DIA) has petitioned the city for the discontinuance of a portion of Cleeve Street on the west side of Great Diamond Island. The applicant has complemented the petition with a proposal to provide a 25-foot-wide easement for pedestrian and other limited access over the southern half of the discontinued portion of Cleeve Street. This petition is made in accordance with state statute (Title 23 M.R.S.A. Section 3026).

The city formally accepted the Cleeve Street right-of-way in a street acceptance record of November 1892. It appears that by this point, Cleeve Street’s more eastern portions had been constructed as public dirt roads; for unknown reasons the Cleeve Street right-of-way nearest the island’s western shore, from Crescent Avenue west, was never developed as a roadway.

There is some evidence that, at the time of the street's acceptance, portions of Elwell Hall, a building now owned and maintained by the DIA as a community center and library, encroached into the right-of-way. The right-of-way is currently grassed, and provides a means of access to "Store Beach," a public beach on the island's western shore.

The petition requests the discontinuance of the Cleeve Street right-of-way between the westerly boundary of the Crescent Avenue right-of-way and the easterly boundary of the Bay Avenue right-of-way, a linear distance of approximately 220 feet. In addition, the proposal sweeps in a triangle of land where the Cleeve Street and Diamond Avenue rights-of-way meet to the north. The applicant also proposes a 25-foot wide public access easement for the purposes of pedestrians, bicycles, golf carts, and wheelchairs over the southern half of the existing right-of-way. Thus, under the current proposal, the city would relinquish all public rights, save for limited access, to the right-of-way. The city's maintenance obligations for the right-of-way would also be terminated.

On March 10, 2014, the Planning Board voted 6-0 (Dundon absent) to recommend the discontinuance to the City Council.

Five affirmative votes are required for passage after public comment.

**Order 204-14/15
(Tab 31)**

Order Approving the Collective Bargaining Agreement with the Communications Employee Association - Sponsored by Sheila Hill-Christian, Acting City Manager.

Staff has reached a tentative agreement with the Communications Employee Association on a successor one year contract. The prior collective bargaining agreement expired June 30, 2013.

The Communications Employee Association, which is comprised of 30 Telecommunicators, Fire Alarm Specialist, Radio Systems Specialist and Telecommunications Supervisors, has reached a tentative agreement with the City. The Administration is requesting a first reading on April 6, 2015. The tentative agreement is within the guidance received by the City Council on February 23, 2015.

The City and the Communications Unit have reached a tentative agreement on a three (3) year contract with a 1.0% general wage increase for Fiscal Year (FY) 2014 retroactive to July 7, 2013; a 1.0% general wage increase retroactive to July 6, 2014; a 1.0% general wage increase retroactive to January 4, 2015 and a 3.0% general wage increase effective July 5, 2015. The duration of the contract and the COLA recommendations are consistent with the unified bargaining strategy previously discussed with the Council.

The contract term is July 2013, through June 30, 2016.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct cost for the three year agreement is approximately \$165,000 of which \$79,000 has already been approved and appropriated through the FY 2014 and FY 2015 budget process.

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

**Order 205-14/15
(Tab 32)**

Order Authorizing General Obligation Bonds to Finance a Portion of the City's 2016 Capital Improvement Program in an Amount not to Exceed \$18,731,000 - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order authorizes the incurring of indebtedness by the City of Portland through the issuance of General Obligation Bonds in the aggregate amount of \$18,731,000 pursuant to the City Charter. The specific items for which the bond proceeds will be expended are set forth in detail in the accompanying Appropriation Order.

The order also finds, determines, and declares, with respect to the Communication System Replacement Project, that an emergency exists with respect to the need to acquire and install such Communication System Replacement Project within the meaning of Section 16(b)(iii) of the City Charter as follows:

- The current public safety radio communication system was installed approximately 15 years ago and is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the City Council finds, determines and declares that emergency circumstances exist under Section 16(b)(iii) of the City Charter requiring approval of the Communication System Replacement project and issuance of the City's bonds therefore without referendum approval.

This order also authorizes the Director of Finance to prepare, issue, and sell the bonds and also authorizes the Director of Finance, Mayor and Clerk, and other proper officials of the City to perform whatever other acts may be necessary or desirable to effect the issuance, sale, and delivery of the bonds.

Finally, the order requires that sufficient funds for the annual payments of principal and interest on the bonds and any notes issued be included in the tax levy each year until the debt represented by the bonds and any notes is extinguished.

Draft minutes of the Finance Committee meeting held on March 26, 2015 are included in the agenda backup. The Committee voted 3-1 to forward this item to the City Council with a recommendation for passage and to declare the Communication System Replacement Project an emergency (3-1 vote).

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

**Order 206-13/14
(Tab 33)**

Order Appropriating \$18,731,000 of Bond Proceeds for the City's 2016 Capital Improvement Program- Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

This order appropriates the new general obligation bond proceeds for the following described capital projects and all other related expenses summarized by category as follows:

Transportation Projects	\$1,600,000
Facilities Projects	\$2,705,000
Parks, Fields, & Trails Projects	\$1,140,000
Equipment & Vehicles Projects	\$9,135,000
Sewer/Stormwater Projects	\$4,005,000
Public Art Projects	\$73,000
Land Bank Projects	\$73,000

Draft minutes of the Finance Committee meeting held on March 26, 2015 are included in the agenda backup. The Committee voted 3-1 to forward this item to the City Council with a recommendation for passage.

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

AMENDMENTS:

**Order 207-14/15
(Tab 34)**

Amendment to Portland City Code Chapter 17 (Offenses, Miscellaneous Provisions) Article V (Regulation of Tobacco) - Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.

The Public Safety, Health and Human Services Committee asked the Public Health Division to compile information regarding electronic nicotine delivery systems (ENDS) for consideration by the committee to include ENDS in the definition of smoking products in City ordinance.

Staff reviewed the City's existing ordinances related to smoking in public spaces, the actions of other states, local municipalities and health organizations, and the information behind the potential dangers of this relatively new tobacco product.

ENDS are currently not regulated by the US Food and Drug Administration (FDA), nor have they been fully studied for their content and health effects.

Concerns about their potential impact on youth tobacco use are also emerging.

Title 22 Chapter 262-A *Maine's Retail Tobacco Sales* laws define electronic cigarettes as tobacco products, which clarifies that e-cigarettes cannot be sold to any person under 18 years of age, and possession and use by minors are prohibited. Maine law does not currently prohibit the use of e-cigarettes in any location.

In 2014, more teens used e-cigarettes than traditional cigarettes, or any other tobacco product. Over 90% of lifetime smokers start before age 18, thus, youth use of a tobacco product and intention to use cigarettes are important public health data.

There is also concern that the use of ENDS in public places such as restaurants, hospitals, and workplaces may cause confusion and thus hinder enforcement of existing smoke-free laws, perhaps even renormalizing smoking in places that were traditionally smoke-free.

As of January 1, 2015, 274 municipalities have passed laws restricting e-cigarette use in 100% smoke-free venues.

The Public Safety, Health and Human Service Department met on March 10, 2015, and voted unanimously to forward this item to the City Council with a recommendation for approval.

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

**Order 208-14/15
(Tab 35)**

Amendment to Portland City Code Chapter 11 (Food and Food Handlers) – Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.

The reasons for submission are to: 1) Adopt the most recent version of the Maine Food Code, 2) specify the loss of hot water as an example of an Imminent Health Hazard (IHH), 3) clearly link raw food menu items and the reminder of the health risks, and 4) require businesses to show proof of a Certified Food Protection Manager (CFPM) before operating and during subsequent inspections.

Adopting the 2013 Maine Food Code will keep us current with the education and enforcement of food code regulations. Specifying the loss of hot water as an IHH will prevent any further confusion if an extended loss of water requires a complete loss of hot and cold water. More visibly linking the presence of raw food items on restaurant menus and the reminder of increased health risks from their consumption will raise the public's awareness and may lead to a decrease in the number of new foodborne illness cases.

Finally, requiring proof of a CFPM before businesses opens and during subsequent inspections will save city staff time and assures that all new businesses start and maintain at least a common basic level of food safety knowledge.

The Public Safety, Health and Human Services Committee met on March 10, 2015, and voted unanimously to forward this item to the City Council with a recommendation for passage.

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

**Order 209-14/15
(Tab 36)**

Amendment to Portland City Code Chapter 14. Land Use Re: R6 and R-6A Zones – Sponsored by the Planning Board, Stuart O’Brien, Chair.

The Planning Board recommends text amendments to the R-6 Residential zone. These include changes to the existing dimensional standards, parking standards, clarifying language linking the R-6 standards to the Design Manual for review of residential projects; standards regarding lots of record, and elimination of the small residential lot development provision. Changes also include a conversion of the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance.

The dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, East Bayside, Bayside, and Libbytown. These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone. Though the pattern of the peninsula’s built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. Current zoning renders the vast majority of parcels in the R-6 zone non-conforming.

These changes bring Portland’s zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners.

The Planning Board met on March 10, 2015, and voted unanimously, 6-0 (Dundon absent) to forward this item to the City Council with a recommendation for passage.

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

**Order 210-14/15
(Tab 37)**

Fourth Amendment to Conditional Zone Agreement Re: Property in the Vicinity of Diamond Cove/Great Diamond Island – Sponsored by the Planning Board, Stuart O’Brien, Chair.

The Planning Board recommends amendments to an existing IR-3 conditional zoning agreement (CZA) for Fort McKinley, Great Diamond Island, to the City Council. The amendment was requested by the City's Department of Public Services to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years.

The amendments include a minor change to the boundary of the designated open space near the "laundry building" and a text amendment/plan reference to confirm the use is an exception to the limitations. The 1985 CZA anticipated the possibility of a municipally operated island solid waste disposal facility being created.

Current waste management on the island consists of a solid waste truck parked on property on Great Diamond Island that is frequently transported off the island. This arrangement is not sufficiently or effectively serving the needs of the island's residents and is costly and inefficient to operate. Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the Diamond Cove Homeowners Association (DCHA) – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island's waste would allow more efficient consolidation and transportation. The DCHA and the City have negotiated a lease to allow the construction of a municipal transfer station on land owned by the DCHA. The site was chosen to be near the barge landing, to minimize truck travel and minimize impact on old growth trees and open space; the agreed site impacts .9 acre of open space and this requires the amendment to the 1985 CZA and associated Open Space Designation.

The Planning Board met on March 24, 2015, and voted 4-0 (O'Brien abstaining; Eaton and Morrisette absent) to forward this item to the City Council with a recommendation for approval.

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

ROLL CALL: Mayor Brennan called the meeting to order at 7:00 P.M. (All Councilors Present).

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Marshall and seconded by Councilor Suslovic for approval of the minutes of the March 2, 2015 City Council meeting. Passage 9-0.

PROCLAMATIONS:

Proc 20-14/15 Proclamation Honoring Detective Nicholas Goodman as Officer of the Month for February, 2015 – Sponsored by Mayor Michael F. Brennan.

Proc 21-14/15 Proclamation Honoring Carol Merritt, Public Services Department, as Employee of the Month for February 2015 – Sponsored by Mayor Michael F. Brennan

PRESENTATIONS:

State of the Schools Address – Sarah Thompson, Portland School Board Chair.

APPOINTMENTS:

CONSENT ITEMS:

Order 173-14/15 Order Declaring the Portland Rugby Football Club – Pork Roast Fundraiser as a Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.

Order 174-14/15 Order Declaring Shipyard Old Port Half Marathon & 5K Road Race as a Festival and Approving Contract and Permits Therefor– Sponsored by Sheila Hill-Christian, Acting City Manager.

Order 175-14/15 Order Declaring United Maine Craftsmen – Payson Pop-Up Craft Show as a Festival – Sponsored by Sheila Hill-Christian, Acting City Manager.

Order 176-14/15 **Order Declaring Portland Urban Raid as a Festival and Approving Contract and Permits Therefor – Sponsored by Sheila Hill-Christian, Acting City Manager.**

Motion was made by Councilor Hinck and seconded by Councilor Duson for passage of the consent items. Passage 9-0.

LICENSES:

Order 177-14/15 **Order Granting Municipal Officers' Approval of Portland Mash Tun LLC d/b/a Portland Mash Tun. Application for a Class XI Restaurant/Lounge License at 29 Wharf Street – Sponsored by Katherine L. Jones, City Clerk.**

Motion was made by Councilor Duson and seconded by Councilor Costa for passage. Passage 8-0 (Hinck out).

Order 178-14/15 **Order Granting Municipal Officers' Approval of Press Hotel LLC d/b/a The Press Hotel. Application for a Class IA 40+ Rooms License with Entertainment with Dance and Outdoor Dining on Public Property at 119 Exchange Street – Sponsored by Katherine L. Jones, City Clerk.**

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

Order 179-14/15 **Order Granting Municipal Officers' Approval of Cumberland County Recreation Center and Global Spectrum, LP d/b/a Cross Insurance Arena. Application for a Civic Auditorium License with Entertainment with Dance at 1 Civic Center Square – Sponsored by Katherine L. Jones, City Clerk.**

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

Order 180-14/15 **Order Granting Municipal Officers' Approval of The 103, LLC d/b/a Crooners & Cocktails. Application for a Class XI Restaurant/Lounge License at 90 Exchange Street – Sponsored by Katherine L. Jones, City Clerk.**

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

BUDGET ITEMS:

COMMUNICATIONS:

UNFINISHED BUSINESS:

Order 172-14/15 Order Approving Two-Party Agreement between the City of Portland and the Maine Department of Transportation Re: Improvements to Forest Avenue – Sponsored Sheila Hill-Christian, Acting City Manager. This item was given first reading on March 2, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone Order 172 to May 4, 2015. Passage 9-0.

ORDERS:

Order 181-14/15 Order Granting Two Gas Utility Easements to Unitil for Gas Lines from Westbrook Street to Portland Technology Park – Sponsored by Sheila Hill-Christian, Acting City Manager.

Motion was made by Councilor Suslovic and seconded by Councilor Brennerman for passage. Passage 8-1 (Hinck).

Order 182-14/15 Order Establishing the Shelter Services Task Force to Conduct a Feasibility Study of Consolidation of Shelter Services – 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 Brennerman for passage. Passage 9-0.

AMENDMENTS:

Order 183-14/15 Amendment to Portland City Code Chapter 12. Garbage, Wastes and Junk Re: Abandoned Bicycles - Sponsored by the Transportation, Sustainability, and Energy Committee, Councilor David A. Marshall, Chair.

This is its first reading.

Order 184-14/15 Amendment to Portland City Code Chapter 14. Land Use Re: 58 Fore Street – Sponsored by the Planning Board, Stuart O'Brien, Chair.
This is its first reading.

Order 185-14/15 Amendment to Zoning Map Re: 58 Fore Street – Sponsored by – Sponsored by the Planning Board, Stuart O'Brien, Chair.
This is its first reading.

Motion was made by Councilor Mavodones and seconded by Councilor Suslovic to adjourn. Passage 9-0, 8:25 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

*Proc. 22-14/15
Tab 2 4-6-15*

PROCLAMATION

RECOGNIZING

MAINE'S DAY OF RECOGNITION FOR NATIONAL SERVICE

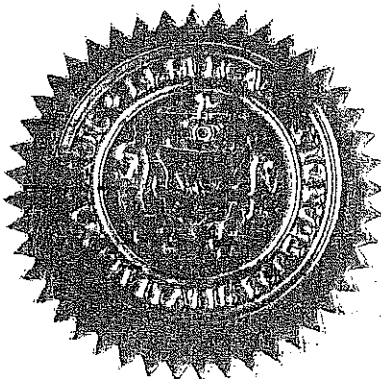
- WHEREAS:** Service to others is a hallmark of the American character, and central to how we meet our challenges; and
- WHEREAS:** The nation's mayors are increasingly turning to national service and volunteerism as a cost-effective strategy to meet city needs; and
- WHEREAS,** AmeriCorps and Senior Corps participants address the most pressing challenges facing our cities and counties, from educating students for the jobs of the 21st century and supporting veterans and military families to providing health services and helping communities recover from natural disasters; and
- WHEREAS:** National service expands economic opportunity by creating more sustainable, resilient communities and providing education, career skills, and leadership abilities for those who serve; and
- WHEREAS:** AmeriCorps and Senior Corps participants serve in more than 60,000 locations across the country, bolstering the civic, neighborhood, and faith-based organizations that are so vital to our economic and social well-being; and
- WHEREAS:** The Corporation for National and Community Service shares a priority with mayors nationwide to engage citizens, improve lives, and strengthen communities; and is joining with the National League of Cities, City of Service, and mayors across the country to recognize the impact of service on the Mayors Day of Recognition for National Service on April 7, 2015.

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 and honor Maine's Recognition for National Service.

Signed and sealed this 6th day of April, 2015



Michael F. Brennan, Mayor
City of Portland, Maine



Proc 23-14/15
Tab 3 4-6-15

PROCLAMATION

PROCLAIMING NATIONAL TELECOMMUNICATORS WEEK APRIL 12-18, 2015

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

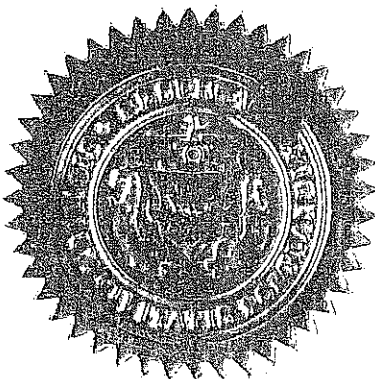
WHEREAS: The safety of our police officers, paramedics and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Portland-South Portland-Cape Elizabeth emergency communications center; and

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 12-18, 2015, 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 6th day of April, 2015

A handwritten signature in cursive script, reading "Michael F. Brennan".

Michael F. Brennan, Mayor
City of Portland, Maine

Doc 24-14/15
Tab 4 4-6-15

PROCLAMATION

Honoring

Mary "Beth" Perham
Employee of the Month

March 2015

* * * * *

WHEREAS: Mary "Beth" Perham, of the Health and Human Services Department, has been named the City of Portland Employee of the Month by a committee of her peers and selected for this distinct honor from a workforce of 1,300; and

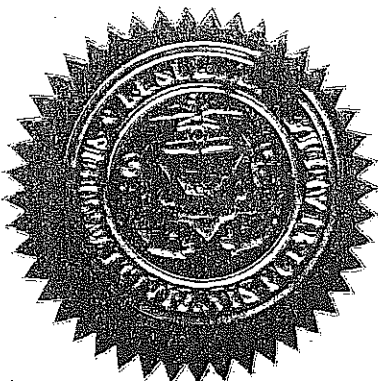
WHEREAS: This award is presented to **Beth** in recognition of her duties as a Unit Clerk at the Barron Center with over 20 years of service. **Beth** is a very caring, compassionate nurse who puts the needs of all residents first. **Beth** demonstrates a strong sense of teamwork. Co-workers note that no task is too big or too small for her; and

WHEREAS: **Beth** is extremely efficient, organized and thorough in all of her work. **Beth** assists other Unit Clerks when they are off and will very often help them get caught up in their work. **Beth** often works the floor doing resident care, when needed, putting her regular workload on hold; and

WHEREAS: **Beth** is a selfless individual who delivers high quality work and exceptional resident care that goes above and beyond. **Beth** often finds ways to save money by her efficient work ethics. She is the "go to" person for questions in her area. **Beth** truly is an **asset** to the Health and Human Services Department and to the City.

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 honor and recognition to **Mary "Beth" Perham** as **City Employee of the Month, March 2015.**

Signed and Sealed this 6th day of April, 2015.



A handwritten signature in cursive script, reading "Michael F. Brennan", written over a horizontal line.

Michael F. Brennan, Mayor
City of Portland, Maine

Proc 25-14/15
Tab 5 4-6-15

PROCLAMATION
RECOGNIZING STARTING STRONG DAY

APRIL 11, 2015

WHEREAS, the residents of Portland recognize that the most important thing a community can do to ensure its own success is to ensure a high quality education for all its children; and

WHEREAS, we recognize that early-grade reading proficiency is the strongest predictor of future academic success; and

WHEREAS, we, along with our many partners in Portland ConnectED's Starting Strong initiative, strive to help all children in Portland to read proficiently by the end of third grade; and

WHEREAS, we believe that children who are ready to succeed in kindergarten are more likely to read at grade level by third grade; and

WHEREAS, we affirm that:

1. a ready community identifies, nurtures, and ~~supports~~ families and children as its number one resource; and
2. ready schools and early care and education providers welcome families and children and create environments that are safe and conducive to learning; and
3. ready families understand that they are the most important people in their children's lives and take responsibility for their children's school readiness through direct, frequent, and positive involvement and interest in their children; and
4. a ready child enters school healthy, eager to learn, and curious about others and the surrounding world; and

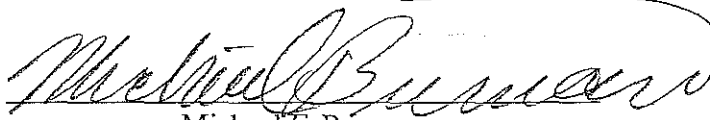
WHEREAS, this year's National Association for the Education of Young Children's *Week of the Young Child* will feature Portland's first-ever "School Readiness Rally" on April 11th to ensure that all Portland children are "starting strong";

NOW, THEREFORE BE IT RESOLVED THAT I, Michael F. Brennan, Mayor of the City of Portland, and Members of the City Council, do hereby recognize the exemplary efforts of Portland ConnectED's Starting Strong and School Readiness Team partners, in concert with the Greater Portland Early Childhood Director's Group, and proclaim April 11, 2015, to be

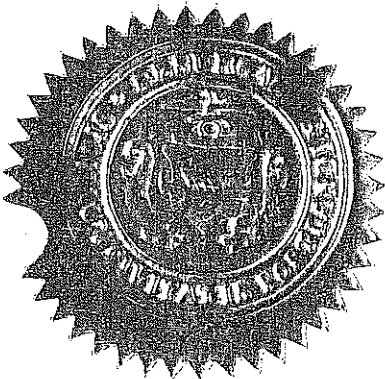
STARTING STRONG DAY

Throughout the City of Portland, and urge all citizens to recognize this observance.

Signed and sealed this ____ day of April, 2015.



Michael F. Brennan
Mayor, City of Portland



*Proc 26-14/15
Tab 6 4-6-15*

**PROCLAMATION
RECOGNIZING
MAINE MARATHON**

April 6, 2015

WHEREAS: The Maine Marathon organization has made a generous donation to the City of Portland; and

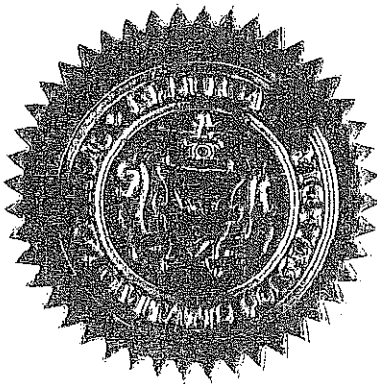
WHEREAS: This donation of \$10,000 to purchase ten (10) new benches in Lincoln Park that will serve as an outstanding new park amenity for visitors to enjoy; and

WHEREAS: The Maine Marathon organization has been a longtime supporter of the City of Portland, providing various donations to important community-wide efforts including donations to non-profit social service agencies, every year; and

WHEREAS: This donation will serve as a basis for future improvements to Lincoln Park for all to use while visiting this historic Park;

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 recognize the Maine Marathon and thank them for their donation toward purchasing new benches in Lincoln Park.

Signed and sealed this 6th day of April, 2015



A handwritten signature in cursive script, reading "Michael F. Brennan", written over a horizontal line.

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

Order 186-14/15
Tab 7 4-6-15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

ORDER APPOINTING WARDENS AND WARD CLERKS

ORDERED, that the following persons are hereby appointed as Wardens and Ward Clerks for the 2015 calendar year:

Warden	Ward Clerk	Precinct
Denise Shames	Anne Rand	1-1
Carol Morrisette	Christopher Danse	1-2
Fred O'Keefe	Reta Morrill	1-3
MaryAnn O'Malley	Richard Mercier	2-1
Susan Lichtman	Priscilla Nelson	2-2
Elaine Spring	Michael Karatsanos	3-1
Dale Kinney	Gail Hannon	3-2
Elizabeth Cyr	Rosemary Malachowski	4-1
Dwight Glidden	Jennifer Angelone	4-2
Sherwood Merrill	Wealthy Merrill	5-1
George Smythe	John McKenney	5-2



Office of the City Clerk
Katherine L. Jones, CCM

MEMORANDUM

TO: Mayor Brennan and Members of the Portland City Council
FROM: Katherine L. Jones, City Clerk
DATE: March 24, 2015
RE: Appointment of Wardens and Ward Clerks

I am recommending the following be appointed for the Election year of 2015.

Warden	Ward Clerk	Precinct
Denise Shames	Anne Rand	1-1
Carol Morrisette	Christopher Danse	1-2
Fred O'Keefe	Reta Morrill	1-3
MaryAnn O'Malley	Richard Mercier	2-1
Susan Lichtman	Priscilla Nelson	2-2
Elaine Spring	Michael Karatsanos	3-1
Dale Kinney	Gail Hannon	3-2
Elizabeth Cyr	Rosemary Malachowski	4-1
Dwight Glidden	Jennifer Angelone	4-2
Sherwood Merrill	Wealthy Merrill	5-1
George Smythe	John McKenney	5-2

Order 187-14/15
Tab 8 4-6-15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPOINTING CONSTABLE FOR 2015
RE: DEPARTMENT OF PUBLIC SERVICES**

ORDERED, that Christian Wilkins, Park Ranger for the Department of Public Services, is hereby appointed as constable for the remaining calendar year 2015; and

BE IT FURTHER ORDERED, that this appointment shall be effective from the effective date of this order until 12:00 midnight, December 31, 2015; and

BE IT FURTHER ORDERED, that this appointment is pursuant to Sections 20-19 and 20-19.5, Portland City Code, and Christian Wilkins is not allowed to carry a firearm, concealed or unconcealed, in the performance of his duties, or to make arrests or issue parking tickets; and

BE IT FURTHER ORDERED, that this appointment is enacted as an Emergency, pursuant to Article II, Section 11 of the Portland City Charter, in order to make it effective immediately.

NO BACK UP FOR THIS ITEM.

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

*Order 188-14/15
Tab 9 4-6-15*

**ORDER APPROVING TRANSFER OF FUNDS UNDER
15 M.R.S.A. §§ 5824(3) and 5826(6)
Re: State of Maine v. Marshall Brunelle**

ORDERED, that the City Council hereby accepts the amounts of \$3,245.00 and \$487.00 in forfeited assets in the case of State of Maine v. Marshall Brunelle from the State of Maine to the City of Portland, pursuant to 15 M.R.S.A. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

STATE OF MAINE
Cumberland, SS

UNIFIED CRIMINAL DOCKET
Criminal Action
Docket No. CR-14-2707

State of Maine

v.

Marshall Brunelle,
Defendant

}
}
}
} City/Town Of Portland
} Approval Of Transfer
} 15 M.R.S.A. §5824(3)
} and §5826(6)
}
}

AND

\$3,245.00 US CURRENCY

DEFENDANT IN REM #1

\$487.00 US CURRENCY

DEFENDANT IN REM #2

}
}

NOW COMES the City/Town of Portland, Maine, by and through its legislative body, the City/Town Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes Annotated, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$3,245.00 US Currency and \$487.00 US Currency, on grounds that the City/Town of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the City/Town of Portland Town/City Council does hereby approve of the transfer of the Defendant(s) *In Rem* to the City/Town of Portland, Maine pursuant to 15 M.R.S.A. §5824(3) and §5826(6).

Dated: _____

Chairperson/Mayor/Selectman/Clerk

(Impress Legislative Body Seal Here)

Order 189-14/15
Feb 18 14-6-15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING TRANSFER OF FUNDS UNDER
15 M.R.S.A. §§ 5824(3) and 5826(6)
Re: State of Maine v. Chad Proctor**

ORDERED, that the City Council hereby accepts the amounts of \$1,802.00 in forfeited assets in the case of State of Maine v. Chad Proctor from the State of Maine to the City of Portland, pursuant to 15 M.R.S.A. § 5824(3) and § 5826(6) and as provided in the attached "Approval of Transfer."

STATE OF MAINE
Cumberland, SS

State of Maine

v.

Chad Proctor,
Defendant

AND

\$1,802.00 US CURRENCY

DEFENDANT IN REM #1

UNIFIED CRIMINAL DOCKET

Criminal Action

Docket No. CR-14-4014

}
}
}
}
}
}
}
}
}

City/Town Of Portland

Approval Of Transfer

15 M.R.S.A. §5824(3)

and §5826(6)

NOW COMES the City/Town of Portland, Maine, by and through its legislative body, the City/Town Council, and does hereby grant approval pursuant to Section 5824(3) and Section 5826(6) of Title 15 of the Maine Revised Statutes Annotated, to the transfer of the above captioned Defendant(s) *In Rem*, namely \$1,802.00 US Currency, on grounds that the City/Town of Portland Police Department did make a substantial contribution to the investigation of this or a related criminal case.

WHEREFORE, the City/Town of Portland Town/City Council does hereby approve of the transfer of the Defendant(s) *In Rem* to the City/Town of Portland, Maine pursuant to 15 M.R.S.A. §5824(3) and §5826(6).

Dated: _____

Chairperson/Mayor/Selectman/Clerk

(Impress Legislative Body Seal Here)

*Order 190-14/15
Tab 11 4-6-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

**ORDER SETTING TIME FOR OPENING
OF POLLS FOR ELECTION ON MAY 12, 2015**

ORDERED, that pursuant to 21-A M.R.S. Sec. 626, the polls shall open at 7:00 a.m. and close at 8:00 p.m. on Tuesday, May 12, 2015.



Office of the City Clerk
Katherine L. Jones, CMC

MEMORANDUM

TO: Mayor Brennan and Members of the
Portland City Council

FROM: Katherine L. Jones, City Clerk

DATE: March 24, 2015

RE: Setting the time for opening the polls on May 12, 2015

Pursuant to 21-A M.R.S. §626, 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.

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

*Order 191-14/15
Tab 12 4-6-15*

**ORDER DECLARING JUNE 11, 12, 13 & 14, 2015 AS
THE OLD PORT FESTIVAL**

ORDERED, that Thursday, June 11, Friday, June 12, Saturday, June 13 and Sunday, June 14, 2015 are hereby declared to be the 42st annual "Old Port Festival," sponsored by Portland's Downtown District; and

BE IT FURTHER ORDERED, that the Old Port Festival Zone on Thursday, June 11, Friday, June 12, Saturday, June 13 and Sunday, June 14, shall be bordered by Congress Street from Monument Square to Pearl Street; Union/Temple Streets from Commercial Street to Congress Street; Commercial Street from Union Street to Pearl Street and including all sidewalks; Pearl Street From Commercial Street to Congress Street; and the Monument Square area and Federal Street Extension; and

BE IT FURTHER ORDERED, that on Saturday, June 13, Tours of the Working Waterfront and an Old Port Scavenger Hunt will be offered and some parks and public squares will be reserved for musical performances; and

BE IT FURTHER ORDERED, that in the Sunday Old Port Festival area will be reserved for concert attendees and music stages will be set up in the Old Port; and

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

On Sunday, June 14, 2015, from 6 a.m. to 6 p.m.

Exchange Street (from Congress Street to Fore Street);
Market and Silver Streets (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);
Newbury Street (from Pearl Street to Market Street)
Wharf Street (all); Dana Street (all); Moulton Street (all); Milk Street (all);
and
Federal Street Extension (from Congress Street to Temple Street); and

BE IT FURTHER ORDERED, that the Sunday June 14 parade will begin at 11:00 a.m. on Federal Street (at intersection with Exchange). 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 – where the parade disbands; and

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; and

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

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to Portland’s 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 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Portland’s Downtown 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 other than at the Maine State Pier (under a separate operating agreement);
3. Conditions for use of grounds and requirements for food service, vending sales, stages, and other items specified in a permit issued from the Public Services Event Office shall be adhered to;
4. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in an operating agreement issued from the Recreation & Facilities Management Department, shall be adhered to;
5. The City Clerk’s Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival, including the Ferris Wheel to be located in DiMillo’s Parking lot;
6. 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;
7. City Departments will provide in-kind services at no charge to Portland’s Downtown District for Sunday’s traditional Old Port Festival, but for other events

where city staff are needed Portland's Downtown District will reimburse City Departments for the costs; and

8. In consideration of the City of Portland's support/in-kind services for 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 waive fees and 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.



Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: March 26, 2015
RE: 2015 Old Port Festival – City Council Agenda Item

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

Order declaring June 11, 12, 13 & 14, 2015, as the Old Port Festival.

This will be the **42nd** Annual Old Port Festival. Portland's Downtown District is again organizing this year's Festival and has proposed expanding the Festival to four days. Events would include the traditional Old Port Festival on Sunday (June 14), as well as events on the days leading up to Sunday, which would include Working Waterfront Tours and concerts at the Maine State Pier and Merrill Auditorium (those concerts will be tied into the OPF via cross-promotion only). In addition, an Old Port Festival Ferris Wheel is planned for DiMillo's Restaurant Parking Lot, Thursday through Sunday (June 11 – 14).

The Old Port Festival expects attendance at this year's events to reach 40,000. Details of the week's events are as follows:

- **Boundary of the Festival Zone (which will cover all 4 days: June 11, 12, 13 & 14, 2015): (festival zone within this area)**
 - Congress Street (from Monument Square to Pearl Street)
 - Union / Temple Streets (from Commercial Street to Congress Street)
 - Commercial Street (from Union Street to Pearl Street), to include sidewalks on both sides of Commercial Street
 - Pearl Street (from Commercial to Congress)
 - Monument Square area and Federal Street Ext. (from Center Street to Temple Street)

Thursday, June 11, 2015:

Concert at Maine State Pier: Kenny Wayne Shepard and Jonny Lang
Old Port Ferris Wheel, DiMillo's Parking Lot

Friday, June 12, 2015:

Concert at Maine State Pier: Rusted Root
Old Port Ferris Wheel, DiMillo's Parking Lot



Michael J. Bobinsky
Director of Public Services

Saturday, June 13, 2015:

Get to Know the Real Portland Day, Noon – 5pm

Events on Saturday include Tours of the Working Waterfront, an Old Port Scavenger Hunt, and music and entertainment in the downtown and Old Port parks and squares. Some of the parks and squares would be reserved for Saturday's portion of the festival.

In addition, some parking spaces near these performance sites would be posted "No Parking."

Concert at Maine State Pier: To Be Announced

Old Port Ferris Wheel, DiMillo's Parking Lot

Sunday, June 14, 2015:

Concert at Maine State Pier: Third Eye Blind

Old Port Ferris Wheel, DiMillo's Parking Lot

Traditional Old Port Festival, 11am – 5pm (No Rain Date)

This is the day for the annual festival, where streets in the Old Port (Festival Zone) are closed to vehicular traffic. The festival will include: Food Vendors, Kiddie Rides, Craft Fair, Music Stages, and Parade. 25,000+ People are expected.

- Boundary of the Festival Zone: (festival zone within this area)
 - Congress Street (from Monument Square to Pearl Street)
 - Union / Temple Streets (from Commercial Street to Congress Street)
 - Commercial Street (from Union Street to Pearl Street), to include sidewalks on both sides of Commercial Street
 - Pearl Street (from Commercial to Congress)
 - Monument Square area and Federal Street Ext. (from Center Street to Temple Street)
- Main Streets listed above (Congress, Union/Temple, Commercial and Pearl) stay open to vehicular traffic. All other streets within the festival zone are closed to vehicles (6am – 6pm), and posted "No Parking:"
 - Market and Silver Streets (from Congress to Commercial Street)
 - Federal, Middle and Fore Streets (from Temple/Union to Pearl Street)
 - Newbury Street (from Pearl Street to Market Street)
 - Exchange Street (from Congress Street to Fore Street)
 - All of Moulton, Dana, Wharf and Milk Streets
 - Federal Street Ext. (Congress Street to Temple Street)
- The festival will feature the annual Parade, which will be entirely on foot. Beginning at 11am, participants assemble on Federal St. (near Exchange Street), and travel down Exchange St., turn left onto Fore, and right onto Silver St. where it will end. Streets used for the parade will have already been closed down to vehicles, starting at 6am.



Michael J. Bobinsky
Director of Public Services

- In addition to the music stages in the Old Port, the patio at One City Center will also host concerts that day. Organizers will reserve Monument Square, One City Center sidewalks, and Monument Way for anticipated attendance at these concerts. These areas are to be included in the Festival Zone. Organizers will work with City Officials to facilitate safe crossing of spectators across at Temple Street.

In order for Sunday's Old Port Festival to be held, a portion of the Old Port District needs to be barricaded to vehicle traffic. The Festival area is bordered by Congress, Pearl, Commercial, Center, Union, and Temple Streets, as well as Monument Square/One City Center area. Interior Streets will be closed to vehicular traffic from approximately 6:00 a.m. – 6:00 p.m., **on Sunday, June 14, 2015.**

Streets to be closed are listed above, under "Traditional Old Port Festival" information.

The Festival area will also include both sidewalks of Commercial Street, as well as the Monument Square/One City Center area.

The Festival areas 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 Zones shall be towed (at owner's expense).

City Departments will provide in-kind services at no charge to Portland's Downtown District for Sunday's Traditional Old Port Festival Day, but other events where city staff are needed, will necessitate PDD and/or concert promoter reimbursing City Departments for those costs. The rental and use of Maine State Pier/Merrill Auditorium will be by separate contract and operating agreement, under the direction of Recreation & Facilities Management Dept.; those specific costs paid by concert promoter.

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** per occurrence 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 Festival, other than the Maine State Pier (under separate operating agreement),



Michael J. Bobinsky
Director of Public Services

- 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,
- Conditions for use of grounds and requirements for food service, vending sales, sound restriction requirements, and other items specified in an operating agreement issued from Recreation & Facilities Management, 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 (and Ferris Wheel),
- Portland's Downtown District shall have sole authority over activities and events and vendors at the Festival (covering all days of the festival: June 11 – 14, 2015), 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 Sunday's 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

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

Order 192-14/15
Tab 13 46-15
DAVID H. BRENNERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING JUNE 13, 2015 THROUGH JUNE 20, 2015
PORTLAND PRIDE! WEEK
AND PORTLAND PRIDE! CELEBRATION AND FESTIVAL**

ORDERED, that Sunday, June 13, 2015 through Saturday, June 20, 2015, is hereby declared Portland Pride! Week and Saturday, June 20, 2015, is hereby declared Portland Pride! Celebration and Festival; and

BE IT FURTHER ORDERED, that the City Manager is authorized to grant permits to Pride Portland! pursuant to Sec. 25-27 of the Portland City Code for the following activities on Saturday, June 20, 2015:

- a. Use of Monument Square and area sidewalks, Monument Way, One City Center Sidewalk, Center Street, Federal Street Extension and sidewalks, Congress Street sidewalk area and Preble Street (from Cumberland Ave to Congress Street) and Federal Street Extension from 10:00 a.m. to 12:00 p.m., as a gathering point for parade participants;
- b. Use of Congress Street (both sides of the street) from Elm Street to High Street, High Street (from Congress Street to Park Avenue), Park Avenue (from High Street to Deering Avenue), State Street Extension (from Park Avenue to Forest Avenue) and entering Deering Oaks at Bowling Green Pathway in the Mellen Street area (Floats park on Park Avenue) for a parade to begin at 12:00 p.m.;
- c. Use of Deering Oaks Park (the Park Avenue side of the park, i.e. grass areas on the south side of the pond and ravine) for Portland Pride! Celebration and Festival: entertainment, displays, food and non-food vendors from 1:00 p.m. – 7:00 p.m.;
- d. If inclement weather, the Festival at Deering Oaks Park would be cancelled, but the parade would still take place, rain or shine; and

BE IT FURTHER ORDERED, that the following streets shall be closed to traffic on Saturday, June 20, 2015:

1. Federal Street Extension and Preble Street from Cumberland Avenue to Congress Street (9:00 a.m. – noon). Preble Street and Federal Street Extension posted “No Parking”;

2. Center Street, from Free Street to Congress Street, closed to traffic and used for parade formation purposes;

3. Streets along the Parade route: Congress Street (Elm to High Street), High Street (Congress Street to Park Avenue), Park Avenue (High Street to Deering Avenue) and State Street Extension entrance to Deering Oaks Park will be closed for short periods of time by police officers in patrol cars and volunteers, blocking the intersection via a rolling barricade (approximately 12:00 p.m. – 1:00 p.m.); and

BE IT FURTHER ORDERED, that 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 Pride Portland! for the purpose of conducting the Festival events, subject to the direction and control of the Acting City Manager; and

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Pride Portland! for the use of the above-described area for said Festival, subject to the following conditions:

1. Some City Department Staff will assist at the Parade for no charge, but Pride Portland! shall reimburse the City for all expenses incurred by City Departments for other additional services at said 2015 Festival;

2. Under no circumstances may alcoholic beverages be sold on the streets or public property of said area during said Festival except in the over-21 area to be partitioned off and staffed by security and subject to meeting all liquor licensing requirements;

4. Pride Portland! shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival;

5. Conditions for use of grounds, specified in a permit issued from Public Services Event Office, shall be adhered to;

6. Pride Portland! shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 (for use of Deering Oaks) per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will list the City of Portland as an additional insured for the Portland Pride! Celebration and Festival; and

BE IT FURTHER ORDERED, that the Acting 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.



Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: March 23, 2015
RE: 2015 Portland Pride!
Pride Celebration, Parade and Festival – City Council Agenda Item

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

Order declaring June 13 – June 20, 2015, as "Pride Portland! Week" and declaring Saturday, June 20, 2015, as "Pride Portland! Pride Celebration and Festival." The Festival itself (Saturday, June 20) is comprised of two components: the Pride Parade and the festival at Deering Oaks Park.

The organization, Pride Portland, has submitted a request/application for **"Portland Pride! Pride Celebration and Festival,"** which includes a number of events taking place all week long. They have requested the following major activities be approved for use of city property (which are similar to previous years, including an alcohol service area at the festival at Deering Oaks Park):

1. For parade assembly: The use of Monument Square, One City Center sidewalk, Preble Street (from Cumberland Ave. to Congress Street), Federal Street Extension, and Center Street (Free to Congress) on **Saturday, June 20, from 10am to 12pm (Noon).**
Parade assembly begins at 10am. Attendance – 1300 marchers (some floats).
2. For parade itself: The use of city streets – both lanes: Congress Street (Elm to High Street), High Street (Congress Street to Park Avenue) Park Avenue (from High Street to Deering Ave.), and State Street Ext. Once reaching Mellen Street area, marchers enter into Deering Oaks Park, **Saturday, June 20, to begin at 12pm (Noon).**
Estimated onlookers – 3000: Estimated participants – 1300 with some floats.
3. For the festival: The use of Deering Oaks Park (Park Avenue side of the Park): entertainment, displays, food and non-food vendors including a **21+ Beer Garden area from 1 – 7pm on Saturday, June 20.**
Attendance – 7,000+ **(NOTE: as the festival now is held on the southside of the pond and ravine area, Farmer's Market will still be held in Deering Oaks Park that day; and farmers will end their sales at the park at the usual time – which is around 1pm.)**



Michael J. Bobinsky
Director of Public Services

Festival Zone (areas falling under Pride Portland Committee's purview):

All of parade formation area and parade route, including the streets themselves, and parking lanes, as well as adjoining sidewalks, square, parks, and plazas (Monument Square, Monument Way, Congress Square).

The south side of Deering Oaks Park, including the sidewalks/pathways and Bowling Green Road, (from the southside of the Ravine and Pond, to Park Ave., to State Street Ext., to Deering Ave.) to include the adjoining sidewalks as well.

Street Closures:

In order for some of these events to be held, a few city streets need to be closed to vehicular traffic on **Saturday, June 20**. In particular, the streets included in the parade formation area and the parade route itself. **(In addition, some of these streets would need to be posted "No Parking.")**

The Public Services Director is working with METRO officials on a MOU around Street Closures and impacts to the transit routes. The Pride Parade will impact some of those METRO routes. City staff and festival organizers will work with METRO on how to best address those impacts.

If inclement weather on Saturday, June 20, the Festival at Deering Oaks Park would be cancelled, but the Parade would still take place, rain or shine.

For Parade formation: Federal Street Extension and Preble Street – from Cumberland Ave. to Congress Street; (9am – Noon). Preble St. and Federal St. Ext posted "no parking." Also, Center Street (from Free Street to Congress Street) closed to traffic and used for formation purposes.

Streets along the Parade route: Congress Street (Elm to High Street), High Street (Congress Street to Park Avenue) Park Avenue (from High Street to Deering Ave.), and State Street Extension, will be closed for a period of time by police officers in patrol cars, parking control officers, and volunteers, blocking the intersections via a rolling barricade. **(Approximately 12 – 1pm)**

Beer Garden:

Organizers wish to sell alcohol (wine and beer) at the festival at Deering Oaks Park, Saturday June 20. Time frame: 1 – 4pm. Equality Maine is the sponsor applying for the Off-Premises Liquor Catering License. If approved, organizers will contract and hire the city's Facilities Management Staff to setup and oversee this 21+ partitioned-off area. Friends of Deering Oaks have reviewed and endorsed.



Michael J. Bobinsky
Director of Public Services

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 Pride Portland Committee for the purpose of conducting the Pride Events, subject to the direction and control of the City Manager.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Pride Portland Committee for the use of the above-described area for said events, subject to the following conditions:

- The Pride Portland Committee, **Co-chairs Jill Barkley and Chris O'Connor**, shall reimburse the City for all expenses incurred by City Departments for said **2015 Festival** (assistance at the Parade is in-kind, as that is considered a 1st Amendment use, however organizers will hire some additional officers to assist);
- Under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said festival, other than an area approved by Portland City Council;
- The Pride Portland Committee shall have sole authority over participating vendors at the events and may charge a fee to vendors for the opportunity to vend at the events;
- Conditions for use of grounds, specified in a permit issued from Public Services Event Office, shall be adhered to; and
- Pride Portland shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000 per occurrence** for personal or bodily injury, death or property damage, and alcohol liability coverage, for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the **"Pride Portland! Pride Celebration and Festival"** activities.

The City Manager is also authorized to waive any fees, and 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



CITY OF PORTLAND, DEPARTMENT OF PUBLIC SERVICES
PUBLIC PARK & SPACE APPLICATION (4 pages)
 55 Portland St. ~ Portland ~ ME ~ 04101
 207-874-8826 (Event Office) ~ Fax 207-874-8816
 tvn@portlandmaine.gov

For uses of city property, there are typically: 1. fees charged for use of the area
 2. a security deposit required 3. insurance required
 (There may be fees due and applications required from other City Departments)

TODAY'S DATE		3/1/15		ORGANIZATION NAME		Pride Portland					
ORGANIZATION ADDRESS				c/o Equality Maine 565 Forest Avenue		CITY	Portland	STATE	ME	ZIP	04102
CONTACT NAME(S)		Jill Barkley & Chris O'Connor				TITLE		Co-Chairs			
HOME #	WORK			CELL	Jill: 332-1297 Chris: 332-2061			FAX			
EMAIL	portmepride@gmail.com				EMAIL						

PARK AREA OR PUBLIC SPACE REQUESTED		Portland Streets (Mon Square / Preble St. / Fed St. Ext) -- for PARADE Deering Oaks Park (north side of Pond + Ravine) -- for FESTIVAL					
EVENT DAY & DATE(S)		Saturday, June 20 th , 2015		RAIN DAY & DATE(S)		None	
EVENT START TIME (i.e. set-up start time)	Parade (10 am -- Formation, 12pm -- parade start) 7 am (festival) STAGE erected on Friday afternoon	EVENT END TIME (i.e. when event cleanup is complete)	1:00pm (parade) 7:00pm (festival)	ACTUAL START & END TIME OF EVENT		12pm (Noon) -- 1pm (parade) 1pm -- 7pm (festival)	

EVENT NAME	EXPECTED ATTENDANCE
Pride Portland! Pride Celebration and Festival	Parade: 1300 marchers 3000 spectators Festival: 7000 +
Pride Week Events:	
Sunday, June 14 th , 2015 -- Field Day - Permit for Preble Street field. Also -- permit for live music to play from coast 93.1 van. 10am -- 5pm	
Monday, June 15 th , 2015-- Picnic on Prom - Permit for Gazebo on Easter Prom, needs to include use of electricity and live music. 5pm -- 8pm	
Tuesday, June 16 th , 2015 -- Yoga - Permit for bandstand in Deering Oaks Park with use of electricity. 6 -- 8pm	
Pride Parade: Sat., June 20, 2015 Noon Kick-Off Parade forms up on Preble Street (between Cumberland and Congress) and Center Street (from Free to Congress) and Monument Square. Parade down Congress Street to High Street, Park Ave. to Mellen Street intersection, onto sidewalk + pathway to Deering Oaks. Organizer will hire some Police Officers and PCO's to assist with traffic control. Many volunteers will staff the parade route intersections.	
ride Festival: Sat., June 20, 2015 1 -- 5pm or 7pm Festival is held in Deering Oaks Park (located on the Park Avenue and Bowling Green Path side of the Oaks) and includes the use of the grass areas and Bowling Green Path, a large stage erected on the grass beside the path (near the pond), and electricity at nearby green box for entertainment (DJ's and bands). Stage comes in on Friday, gets removed on Sunday or Monday.	

Many tables set up on the grass, some canopies set up.
 There will be food and non-food vendors at the festival. Some gas grills will be used for cooking. The food trucks will need to park in other areas – other than beside the Park Avenue sidewalk.
 The Bowling Green itself, will NOT be used for any formal events (other than recreation + socializing and blanket seating). Organizer will rent a number of porta-restrooms (10+) to be positioned on grass area just to the side of the Bowling Green path.
 Parking spaces all along Park Ave. (park side, from State Street Ext. to Deering Ave.) need to be set aside for the festival.
 A banner is requested to be hung over the street.

A **Beer Garden** will be set up in the park, past the vendor tables, separate from the stage area. The festival organizers will secure a licensed vendor to serve alcohol. The sponsor for the Beer Garden is Equality Maine (a non-profit). Only guests 21+ will be admitted to the beer garden. It will run from 1:00-4:00, with a last call. Additionally, 2 porta-restrooms will be inside of the beer garden.

IS THERE A REGISTRATION FEE?	Yes – vendors and groups pay to participate in the parade and festival	
IF YES, HOW MUCH?	FEE	\$ TBA

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN? Reserved parking is needed for some vehicles... at Deering Oaks (Park Avenue – north side) as well as around the Parade Formation Area. Otherwise, parking for participants is at area parking lots, garages, and on street.

PLEASE CHECK OFF AND ANSWER:
PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
* Are you setting up a canopy(s) ? (canopy is 10x10 size) How many:	X		
* Do you wish to set up a tent(s) ? (a canopy or tent larger than 10x10 needs to be approved)		X	
* Will you be setting up tables and/or chairs ? How many tables: chairs:	X		
Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List: LARGE STAGE ON GRASS	X		
* Will there be refreshments at the event? Do you wish to sell food ? (If so, you will need approval from Public Services) List food and drink: Food Trucks and other Food Vendors A Temporary Food Service License (from the City Clerk's Office) is needed, even if food is given away (and even if it is pre-packaged). PLEASE give the Clerk's Office at least a 2-week notice.	X		
* Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.)? If so, you will need approval from Public Services, and you will need to apply for a Street Goods Vendor License(s) at the City Clerk's Office. List items you wish to sell: an assortment of items ????????????	X		
* Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Y Band ? Y DJ ? Y If so, your event requires a concert license from the City Clerk's Office. (Just voice – i.e. Press Conference, would not require the license because it is not music). For amplified music/speech, there are time restrictions for the Downtown Parks & Squares (music limited to 11:45am – 1:15pm, and 1 hour between 5pm – 8pm).	X		
* Will your event require electricity ? Electricity is available at some of the parks & squares	X		
* Are you planning on bringing a Grill for a Barbecue ? Only Gas Grills are allowed in the parks (NO CHARCOAL). Grilling is subject to weather conditions and possibly Fire Dept. review.	X		
* Will the event require reserved parking spaces / parking meters ? How many? LOTS "No Parking" signs may be purchased at Public Services, 55 Portland Street.	X		
* Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow: A few orange vests and cones may usually be borrowed from Public Services, Event Office. Barricades and signs are borrowed from Public Services, Customer Service.	X		
Will your event require street closures ? (Please be specific under "Description of Event")	X		
* Will your event require Police assistance ? An event such as a road race, march in the street, or parade would typically require police assistance.	X		
* Will your event require Fire/EMS assistance ? (For a large walk/race, it is recommended.)	X		
* Will your event require porta-restroom rental(s) or need existing porta-restrooms	X		

	cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.)			
*	Do you wish to have a banner over the street to advertise your event ? (Banners hung over Congress St. or Baxter Blvd). Banner inquiries directed to Public Services: 874-8801.	X		

INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance? (For an event such as a walkathon, race, festival, press conference, concert, etc., the city requires insurance coverage - General Liability. The City of Portland needs to be named as additional insured and the policy endorsed in regards to the event activities on that date). If your event has been approved for serving food, Product Liability is also required, in addition to General Liability.	X		
♦	If you answered yes, please have "City of Portland, Maine" listed as an additional insured on the certificate, in this way: certificate must say either: A) "the policy actually is endorsed to name the City of Portland as an Additional Insured" and a copy of the endorsement must come to the City of Portland with the certificate, or B) "the policy already includes an endorsement, such as the General Liability Expansion Endorsement, by which the City of Portland is, in fact, automatically made an additional insured." A Certificate which merely has a box checked under 'Addl Insr," or which merely states The City of Portland is named as an Additional Insured, will not be acceptable. The amount of coverage must be shown on the certificate, and the minimum coverage amount is \$400,000. Please have your insurance company email a copy to Public Services: email to tvn@portlandmaine.gov.			

PUBLIC SERVICES POLICIES

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements.

BARBECUES - GAS GRILLS ONLY

Only GAS GRILLS are allowed in parks/public spaces – i.e. No Charcoal Grills or open burning. Barbecuing must first be approved by Public Services and is subject to weather conditions, and possible further review by the Fire Dept. Grills must be set up away from children's activities. You must bring a fire extinguisher with you to the grilling area.

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. Some of Portland's parks already have portable restrooms ("Deering Oaks Park – Playground + Ravine). If over 150 people are expected to attend the event, a \$25 user fee is required (paid to Public Services). The restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic, 207-799-1980, M-F) to request and pay for a cleaning.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). The area will be checked following your event and if the park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Public Services has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$10 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.**

TOBACCO FREE ZONES

By city ordinance, smoking is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Please make sure you pass this information along to participants / spectators at the event.

NOTIFICATION

Please keep a copy of this permit on site at all times. City staff may require proof of permit.

REVOCABLE PERMIT

- ♦ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ♦ The City reserves the unconditional right to revoke or revise an issued permit.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES

TYPE INITIALS

JB

DATE

3/1/15

ASSUMPTION OF RISK & LIABILITY

Users of the area agree to accept the grounds in an "as is" condition and shall be responsible for all risk and liability in using the park/public space area for the said event. By returning this form, (should permission be granted to use city property), the above parties agree to indemnify and hold harmless the City of Portland, its employees and agents, from and against all claims arising out of activities during said event.

I have read the Assumption of Risk & Liability Agreement	TYPE INITIALS	JB	DATE	3/1/15
--	---------------	----	------	--------

CREDIT CARD INFORMATION				
Visa or MasterCard Number			Exp Date (Mon/Yr)	
CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED				

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"	
♦ Please make out security deposit checks separate from permit fees.	

TOTAL AMOUNT(S) DUE TO PUBLIC SERVICES (Please make all security deposit checks out separately)			
Permit Fee for use of area: \$40 per hour (i.e. a 3 hour event totals \$120) includes use of elec. If your event is rained out / cancelled, the bulk of the fee is returned (however \$40 is non-refundable) Number of Hours of Use: 12 hours	\$ 480 due	Vest, Barricade, Cone Deposit: \$10 per/item	\$?
Electricity: \$5per/hr (fee only pertains to 1 st Amendment uses -- i.e. no charge if paying hourly fee)	\$ 0	Public Space / Park Security Deposit: Sound Security Deposit \$100 - \$1000	\$ 1000 due
Key Deposit: \$50 per key	\$ N/A	Other (Porta-Restroom User Fee, etc.)	\$ N/A

FOR OFFICE USE ONLY							
DATE REC'D APPLICATION	3-13-2015	DATE REC'D INSURANCE	NEED	PERMIT FEE AMT REC'D	\$ NEED	SECURITY DEPOSIT	\$ NEED
PAYMENT TYPE							
VISA	\$	MC	\$	CK #	CK AMOUNT	\$	CASH AMT \$

Order 193-14/15
Tab 14 4-6-15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENNERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING JUNE 5, 2015 AS THE
FIRST FRIDAY ART WALK SUMMER EDITION FESTIVAL**

ORDERED, that Friday, June 5, 2015 is hereby declared to be the First Friday Art Walk Summer Edition Festival, sponsored by Portland's Downtown District; and

BE IT FURTHER ORDERED, that the First Friday Art Walk Summer Edition Festival Zone on Friday, June 5, 2015 shall be Congress Street from State Street to Elm Street and its sidewalks, as well as Longfellow Square, Congress Square and Monument Square and city sidewalks around One City Center; and

BE IT FURTHER ORDERED, that the public squares in the Festival Zone shall be reserved for Portland's Downtown District's arts programming; and

BE IT FURTHER ORDERED, that Congress Street and adjoining side streets from State Street to Elm Street and Federal Street Extension between Congress Street and Temple Street shall be closed to traffic from 6 p.m. to 9 p.m.; and

BE IT FURTHER ORDERED, that the closed sections of Congress Street and Federal Extension shall be posted "No Parking" and vehicles in violation of the "No Parking" signs in the Festival Zone shall be towed at owner's expense; and

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

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to Portland's 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 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Portland's Downtown 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 Public Services Event Office shall be adhered to;
4. The City Clerk's Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival (artists participating in the Festival will not be required to procure a license; artists must subscribe to the Street Artist Rules & Guidelines);
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 Festival; and
6. Portland's Downtown District will reimburse City Departments for the costs of staffing including Police Department officers controlling traffic at intersections and Parking Control Officers; and

BE IT FURTHER ORDERED, that the City Manager is authorized waive fees and 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.



Michael J. Bobinsky
Director of Public Services

TO: Sheila Hill-Christian, Acting City Manager
FROM: Michael Bobinsky, Director of Public Services
DATE: March 25, 2015
RE: First Friday Art Walk - Summer Edition – City Council Agenda Item

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

**Order declaring Friday, June 5, 2015, as the
First Friday Art Walk Summer Edition Festival.**

This is the 3rd year in a row that Portland's Downtown District is planning a Festival coinciding with June's First Friday Art Walk (Friday, June 5, 2015). These annual events bring out thousands of people to the downtown and Old Port area. PDD, along with Creative Portland, would again plan and organize activities around the festival. In addition to using the squares for concerts/entertainment, organizers also envision 10-30 areas along the street (parking spaces) where entertainment, activities, dances, demonstrations, and specialized artists would set up. City staff will meet with organizers prior to June 5 to discuss details and traffic management, which will include an evaluation of the preferred detour plan for METRO bus routes along the corridor; use of the 2014 FFAW traffic closure plan will be considered as a base line and adjustments will be made based on best practices, minimal impacts to the surrounding traffic and overall safety. A special detour bus lane for Congress Street will be planned as well. (The traffic control plan will consist of use of barricades positioned at many intersections, 10 Police Officers hired, 3 Parking Control Officers hired, and private security assisting with detour bus lane).

Congress Street (both lanes) from Elm St. to State St., would be closed (6 - 9pm), Friday, June 5, 2015 (no rain date), leaving High Street open for cross traffic. The later closure is to assist commuters leaving offices at 5pm. The Congress Street closure will necessitate the closing of side streets leading onto that closed section of Congress Street (except for the aforementioned High Street). PDD will work with the City of Portland, Police and Public Services, and Metro, to facilitate this closure. To accommodate Metro bus service needs, a "Bus Lane Only" will be set up on Congress Street, between Preble Street and Elm Street, to be staffed by Police, volunteers and private security.

In addition, Federal Street Ext., between Congress and Temple Streets (6 - 9pm) would also be closed to traffic. Both Congress Street and Federal Street Ext. would be posted "No Parking."

The following public spaces (Congress Square, Monument Square and Longfellow Square, as well as 10-30 parking spaces) would be reserved for PDD for arts programming.



Michael J. Bobinsky
Director of Public Services

The Festival Zone is Congress Street itself (State Street to Elm Street), and the adjoining sidewalks, as well as Longfellow Square, Congress Square, and Monument Square/One City Center Sidewalks/Monument Way area.

Vehicles in violation of the "no parking" signs in the Festival Zones shall be towed (at owner's expense).

City Departments will require payment of services for staff covering the FFAW street closures.

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 events, 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 First Friday Art Walk Summer Edition and its activities,
- Under no circumstances may alcoholic beverages be sold on the streets of public property of said area during said 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 (artists participating in the FFAW will not be required to procure a license; artists must subscribe to the Street Artist Rules & Guidelines), and
- 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 FFAW Summer Edition.

The City Manager is also authorized to waive any fees, and 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 194-14/15
Tab 15 4-6-15

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

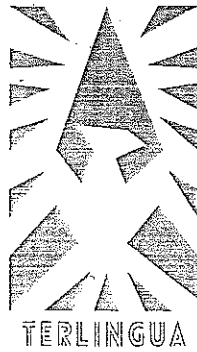
CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**El Luchador Holdings LLC d/b/a Terlingua. Application for a Class XI Restaurant/
Lounge License and Outdoor Dining on Public Property at 52 Washington Ave.**

Received 3/2/15
12:45pm



March 2, 2015

Dear Mayor Brennan and Members of the City Council,

My Name is Pliny Reynolds, and I am writing to apply for a license to serve food and alcoholic beverages in my new restaurant, Terlingua.

My wife, a Maine native, and I moved to Maine in 2013 from Austin, Texas, with the intentions of leaving our desk jobs behind and working towards owning and operating our own restaurant. We both have a strong passion for food and hospitality and look forward to combining our favorite aspects of Texas BBQ with Latin American fare.

We are also very excited about our location on Washington Avenue and see that there is a need in the neighborhood for a casual, comfortable, everyday bar and restaurant offering excellent food and drinks at a reasonable price point. We plan to be open six nights a week for dinner from 4-9pm during the week days and 3-12pm on weekends.

We purchased the building at 52 Washington Avenue in October of 2014 and are currently in the construction phase of the project. We are hoping to be completed with renovations in mid April and would like to open by May 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Pliny Reynolds", is written over the printed name.

Pliny Reynolds

Received 01210
12:45p.m.

Portland, Maine



Yes, Life's good here.

Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557

Application for Food Service Establishment with Alcoholic Beverages License

Business Information			
Business Name (d/b/a):	Terlingua	Phone:	207.400.0405
Location Address:	52 Washington Ave Portland	Zip:	04101
If new, what was formerly at this location:	CHEZ BISO NA BISO		
Mailing Address:	52 Washington Ave Portland	Zip:	04101
Contact Person:	Pliny Reynolds	Phone:	207 400-0405
Contact Person Email:	pliny@terlingua.me		
Manager of Establishment:	Melanie Reynolds	Phone:	207 402-2464
Owner of Premises (Landlord):	Pliny Reynolds		
Address of Premises Owner:	56 Washington Ave Portland	Zip:	04101

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
EL Luchador Holdings LLC.		56 Washington Ave Portland 04101	
Contact Person:	Pliny Reynolds	Phone:	207 400-0405
Principal Officers	Title	Date of Birth	Residence Address
Pliny Reynolds	Owner	8/8/78	56 Washington Ave. Portland, ME

About Your Establishment

Class of Liquor License:	CLASS XI	
Type of food served:	Texas Style BBQ & Latin American	
Please circle all that will be served:	Beer Wine Liquor	
Projected percentage of sales:	Generated from Food:	Generated from Alcohol:
Hours & days of operation:	M: 4-10 T: Closed W: 4-10 Th: 4-10 F: 4-12 SA: 4-12 SU: 4-9	

QUESTIONS		YN
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?		YN
If No, please explain:		
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?		YN
If yes, give the distance:		
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)		YN
Will you permit dancing on the premises?		YN
Will you permit dancing after 1:00 a.m.?		YN
Will you have outside dining? (If yes, an Outdoor Dining Application is required)		YN
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).		
Will you have any amusement devices (pinball, video games, juke box)?		YN
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____		
What is your targeted opening date?		5/1/15
Does the issuance of this license directly or indirectly benefit any City employee(s)?		YN
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?		YN
If Yes, please list business name(s) and location(s):		
Is any principal officer under the age of 21?		YN
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?		YN
If Yes, please explain:		

I, Tim Reynolds, do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

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 3.2.15

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.maine.gov

Department of Public Safety
Division

Liquor Licensing & Inspection



BUREAU USE ONLY

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

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.

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ SPIRITUOUS ☐ VINOUS

INDICATE TYPE OF LICENSE:

☐ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTINONAL 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>EL LUCHADOR Holdings LLC</u> DOB: <u>01/11/14</u>		2. Business Name (D/B/A) <u>Terlingua</u>	
<u>RM</u> DOB: _____		Location (Street Address) <u>52 WASHINGTON AVE</u>	
Address <u>56 WASHINGTON AVE</u>		City/Town <u>PORTLAND</u>	State <u>ME</u>
DOB: _____		Zip Code <u>04101</u>	
City/Town <u>PORTLAND</u>		Mailing Address <u>SAME AS ABOVE</u>	
State <u>ME</u>	Zip Code <u>04101</u>	City/Town <u>PORTLAND</u>	State <u>ME</u>
Telephone Number <u>207.400.0405</u>	Fax Number _____	City/Town <u>PORTLAND</u>	State <u>ME</u>
Federal I.D. # <u>Tax ID # 46-2499877</u>		Business Telephone Number <u>207.400.0405</u>	
Seller Certificate # _____		Fax Number _____	

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: Melanie Reynolds

8. If business is NEW or under new ownership, indicate starting date: 5/1/15

Requested inspection date: 4.29.15 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
Pliny Reynolds	8/8/78	NEW JERSEY
Melanie Kratoril	6/30/80	BIDDEFORD, MAINE

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

Pliny Reynolds - Austin, Texas & Portland, Maine

Melanie Kratoril - Austin, TX & 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 DIAGRAM

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☐ NO ☒ Applied for: 3/3/15

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? 2000ft Which of the above is nearest? East End Community 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: BUSINESS LOAN FROM FATHER

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.

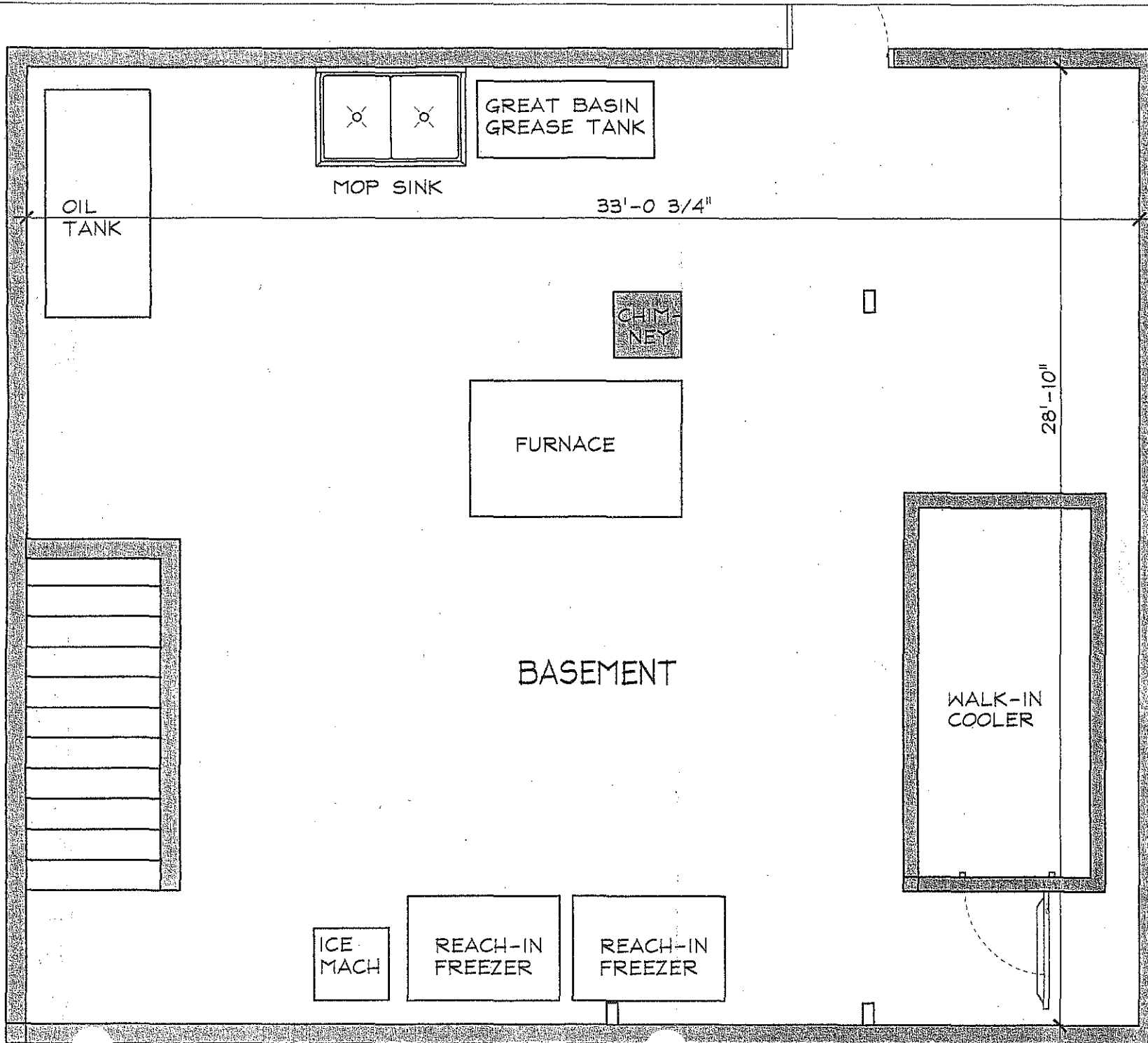
NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Portland, ME on March 2nd, 20 15
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

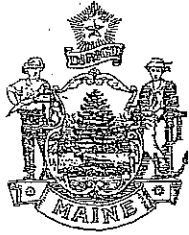


Distribution		
issue:	date:	rev:

50 Washington Ave

Paper Space
Design Build
PSDB
56 Washington Ave
Portland Maine 04101
tel: 270 400 0405

Fixture Plan



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

EL LUCHADOR HOLDINGS, LLC.

2. Other business name for your entity (DBA), if any:

TerLingua

3. Date of filing with the Secretary of State: 3/2/15

4. State in which you are formed: MAINE

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
Pliny Reynolds	46 Chicon St., Austin, TX	8/8/78	100%

7. Is any principal person involved with the entity a law enforcement official?

Yes

☐

No

☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes

☐

No

☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

3.2.15

Date

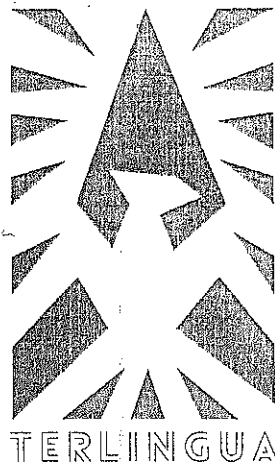


Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov



SNACKS

Pickled Eggs

Spicy Peanuts with Red Chile & Lime

Fresh Tortilla Chips with Salsa Casera

SALADS AND STARTERS

Scallop Ceviche

Cold-Smoked Fish Salad
lime, sweet peppers, vidalia onions, tortilla chips

Terlingua House Salad
greens, avocado, radish, sesame seed dressing,
tortilla crisps

Crispy Pork Belly Chicharron
sweet & sour honey, greens

Char-Grilled Squid
sea salt, citrus, cilantro

Shrimp
(Grilled or Peel & Eat) \$ Per lb

PLATES AND BOWLS

Mushroom Empanada \$0/\$00

Stuffed Poblano \$0/\$00

Beef Tongue & Cheek Tacos \$0/\$00
grilled scallions, spicy salsa verde

Pork Green Chili \$0/\$00
sweet corn, potatoes, monterrey jack

Red Chili with Smoked Brisket \$0/\$00
sour cream, jalapeno, red onion

Chicken Pozole \$0/\$00
hominy, avocado, radish, cabbage, lime

ON THE BOARD

Check out our blackboard
to see what's hot off the smoker.

Daily selections to include:

Brisket
Pork Ribs
Pork Shoulder
Lamb

SIDES

Roasted Poblano Cauliflower & Cheese
All-Day Simmered Greens with Pork Belly & Vinegar
Big Pot Rosado Beans
Roasted Street Corn off the Cob with Bacon, Cojita & Cilantro
Sliced Avocado

DESSERT

Trio of house-made tropical sorbets
Pecan Pie In A Jar with vanilla ice cream
Tres Leches
Banana Pudding
Terlingua Hot Cocoa



Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

March 24, 2015

Terlingua
Attn: Pliny Reynolds
56 Washington Ave
Portland, ME 04101

Re: El Luchador Holdings LLC d/b/a Terlingua. Application for a Class XI Restaurant/
Lounge License and Outdoor Dining on Public Property at 52 Washington Ave.

Dear Mr. Reynolds,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, April 6th at 7 p.m.** for the review of your application for a Class XI Restaurant/Lounge license with Outdoor Dining on Public Property for El Luchador Holdings LLC d/b/a Terlingua at 52 Washington Ave. 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.

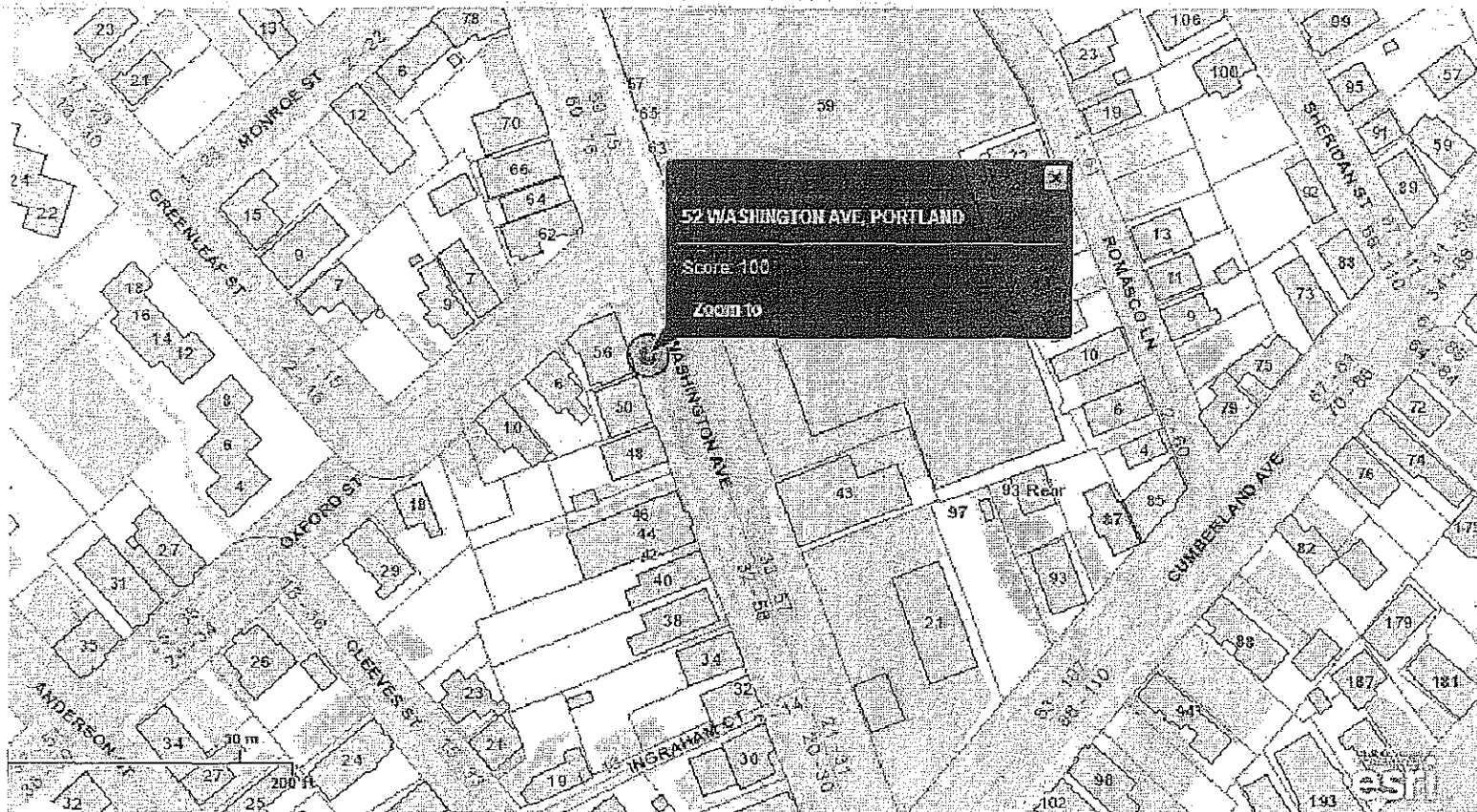
Should you have any questions or concerns, please do not hesitate to contact our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

A handwritten signature in cursive script, appearing to read "Janice Gardner".

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

My Map



ght 2011 Esri. All rights reserved. Tue Mar 24 2015 08:49:54 AM.



Outdoor Dining Permit Application

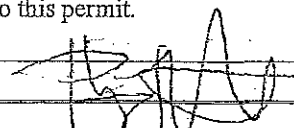
If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

☒ New Application for Outside Dining ☐ Renewal Application for Outside Dining City Clerk signature for liquor license approval: _____ Pending Council Date:		
Location Name & Address: TERLINGUA 52 Washington Ave Portland, MAINE 04101	Chart	Block Lot
Owner & Phone #: Patty Reynolds 207.400.0405	Total Square Footage of Proposed Seating Area: ¹ 150 sq ft	
Applicant *must* be owner or lessee Name: Patty Reynolds Address: 56 Washington Ave City, State & Zip: Portland ME 04101 E-Mail: pattyreynolds@hotmail.com	Annual Fee: \$80 Total Sq. Ft.: 150 Sq. Ft. Fee: (sq ft x \$2) \$ 300 (Due when issued) Total Fees: \$ 380 (Permit not issued until all fees are paid)	
Current use: RESTAURANT Business name: TERLINGUA Seating area dimensions: 22' x 7' How many chairs? 12 How many tables? 3 ☒ Yes Alcohol is served. ☐ No Alcohol being served.		
Who should we contact for the pre-inspection: Patty Reynolds Mailing address: 56 Washington Ave 04101 Phone: 207 400 0405		

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit.

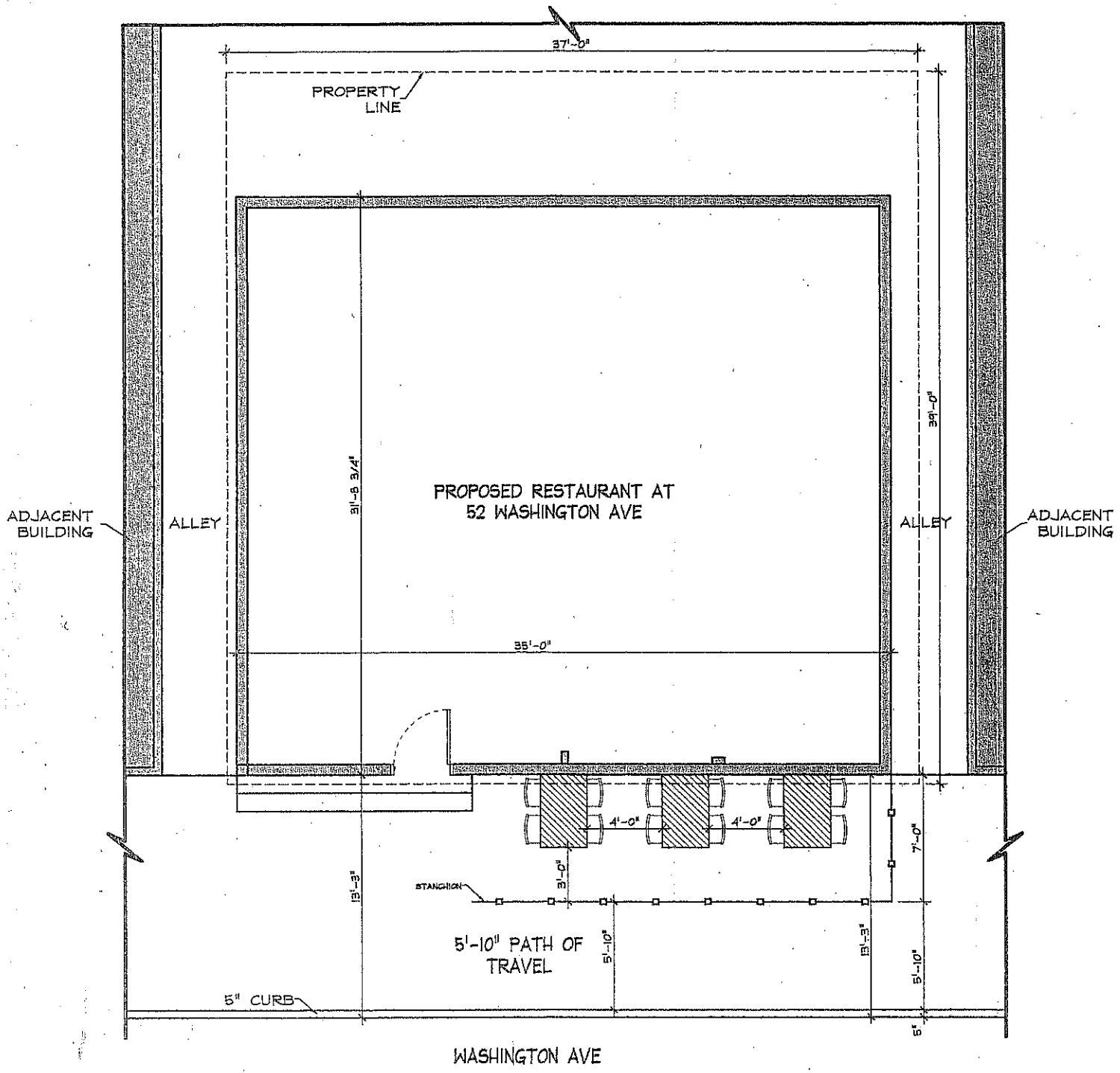
In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant:  Date: 3.4.15

¹ In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.

This is not a permit; you may not commence ANY work until the permit is issued.



Distribution

issue:	date:	rev:

50 Washington Ave

paper Space
Design Build
50 Washington Ave
Portland Maine 04101
tel: 270 400 0405

1 Site Plan
Scale: not to scale



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)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C426308

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-06) :

Inquiries Name(s) MELANIE KRATOVIL (1980-06-30)

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)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C426305

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-06) :

Inquiries Name(s) MELANIE REYNOLDS (1980-06-30)

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)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C426301

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-06) :

Inquiries Name(s) PLINY REYNOLDS (1978-08-08)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - TERLINGUA-PENDING Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 3/8/2015 3:15 PM
Subject: TERLINGUA-PENDING Business License Approval

TERLINGUA-PENDING is Approved for their Business License Inspection by the Police Dept.

Date: 3/8/2015

Zone:

Comments: Class XI with outdoor dining.

Lt. Gary L Hutcheson
Portland Police Department
109 Middle St
Portland, Maine 04101
(207) 756-8295

Order 195-14/15
Tab 16 4-6-15

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

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

AAA Rue Marche LLC d/b/a Timber. Application to add corporate officer to Class I FSE License with Outdoor Dining on Public Property at 106 Exchange St.



"Fine Food and Drink - Old Fashioned Friendly Service"

5 Silver St. Portland Maine 04101
(207) 899-3778
northpointportland.com

MAR 09 2015

10:10am



106 Exchange St.
Portland, ME 04101

(207) 805-1469
timberportland.com

3/6/15

To The Mayor and Members of the City Council,

Please be advised that I have added my Brother Daniel Talmatch as an Equal Business Partner 50%- 50% for AAA Rue Marche, D.B.A Timber Steakhouse & Rotisserie located at 106 Exchange St Portland Me 04101

We have been operating since 5/27/14 and we already are in possession of a current state and city Liquor License but are re-applying due to regulations regarding new partners.

Thank you,

Noah Talmatch Direct Line - 646-701-1011

CEO The North Point LLC & Rue Marche LLC Restaurant Group

MAR 09 2015

10:10 am.

Portland, Maine



Yes, Life's good here.

Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557

Application for Food Service Establishment with Alcoholic Beverages License

Business Information:	D.B.A. TIMBER STEAKHOUSE		
Business Name (d/b/a):	AAA RUE MARCHE LLC	Phone:	207-809-1169
Location Address:	106 EXCHANGE ST. PORTLAND ME 04101		
If new, what was formerly at this location:	—		
Mailing Address:	35 SILVER ST. PORTLAND ME 04101		
Contact Person:	NOAH TALMATH	Phone:	646-701-1011
Contact Person Email:	NOAZARC62@GMAIL.COM		
Manager of Establishment:	NOAH TALMATH	Phone:	646-701-1011
Owner of Premises (Landlord):	JOE PALACCI		
Address of Premises Owner:	104 EXCHANGE ST. PORTLAND ME 04101		

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name:		Corporate Mailing Address:	
AAA RUE MARCHE LLC		35 SILVER ST PORTLAND ME 04101	
Contact Person:	NOAH TALMATH	Phone:	646-701-1011
Principal Officers	Title	Date of Birth	Residence Address
NOAH TALMATH	PRESIDENT	7/26/62	35 SILVER ST
DANIEL TALMATH	VICE PRESIDENT	5/27/61	PORTLAND ME
			04101

About Your Establishment

Class of Liquor License:	RESTAURANT CLASS 1	
Type of food served:	STEAK HOUSE	
Please circle all that will be served:	<u>Beer</u> <u>Wine</u> <u>Liquor</u>	
Projected percentage of sales:	Generated from Food: 60%K	Generated from Alcohol: 40%K
Hours & days of operation:	Sun — SAT 4 pm — 1 AM	

QUESTIONS		Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?		<u>Y</u> /N
If No, please explain:		
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?		<u>Y</u> /N
If yes, give the distance:		
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)		Y/ <u>N</u>
Will you permit dancing on the premises?		Y/ <u>N</u>
Will you permit dancing after 1:00 a.m.?		Y/ <u>N</u>
Will you have outside dining? (If yes, an Outdoor Dining Application is required)		Y/ <u>N</u>
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).		
Will you have any amusement devices (pinball, video games, juke box)?		Y/ <u>N</u>
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____		
What is your targeted opening date?		WE ARE ALREADY OPEN
Does the Issuance of this license directly or indirectly benefit any City employee(s)?		Y/ <u>N</u>
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?		<u>Y</u> /N
If Yes, please list business name(s) and location(s):		
THE NORTH PORT & TIMBER 106 EXCHANGE ST. 35 SILVER ST.		
Is any principal officer under the age of 21?		Y/ <u>N</u>
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?		Y/ <u>N</u>
If Yes, please explain:		

I NOAH TALAMON do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

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 PRESIDENT Date 7/6/15

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.maine.gov

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



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.

DEPARTMENT USE ONLY

LICENSE NUMBER:

CLASS:

DEPOSIT DATE

AMT. DEPOSITED:

BY:

CK/MO/CASH:

PRESENT LICENSE EXPIRES

5/22/15

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>AAA RUE MARCHE</u> DOB: <u>11/1/14</u>			2. Business Name (D/B/A) <u>TIMBER STEAKHOUSE</u>		
<u>35 SILVER ST.</u> DOB: _____			<u>106 EXCHANGE ST.</u>		
<u>PORTLAND ME 04101</u> DOB: _____			Location (Street Address) <u>PORTLAND ME 04101</u>		
Address			City/Town		State
City/Town			State		Zip Code
Telephone Number <u>646-701 1011</u>			Business Telephone Number <u>207-809-1469</u>		
Fax Number			Fax Number		
Federal I.D. # <u>46-396-7032</u>			Seller Certificate #		

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

4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ 600K LIQUOR \$ 400K

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

If YES, complete Supplementary Questionnaire

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

7. If manager is to be employed, give name: NOAH TALMANTH

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

Requested inspection date: _____ Business hours: _____

9. Business records are located at: 35 SILVER ST. PORTLAND ME 04101

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
NOAH TALMARCH	7-26-62	NEWYORK NY
DANIEL I TALMARCH	5-27-61	New York NY

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

35 SEAR ST. 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)

ATTACHED

18. Does 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? 2500 FT 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: _____

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: _____ on 3/6/15, 20____

Town/City, State

Date

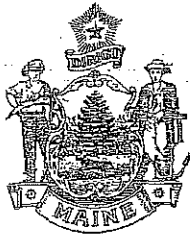
Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Print Name

Signature of Applicant or Corporate Officer(s)

Print Name



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name: AAA RUE MARCHE
Daniel D Talmat
2. Other business name for your entity (DBA), if any:
TIMBER STEAK HOUSE
3. Date of filing with the Secretary of State: 11/1/14
4. State in which you are formed: ME
5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
DANIEL TALMAT	7 SUSQUEHANNA AVE GREAT NECK N.Y. 11221	5/27/61	50
NOAH TALMAT	355 ELIZ ST. PORTLAND ME	7/26/62	50
	7 SUSQUEHANNA AVE GREAT NECK N.Y. 11221		
DANIEL —	PAG HAMMARSKJOLD VEG N - 5144 FYLINGSDALEN NORWAY		

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes

☐

No

☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature: _____

Signature of Duly Authorized Person

Date

3/6/15

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To: Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov



Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

March 24, 2015

Timber

Attn: Noah Talmatch

35 Silver Street

Portland, ME 04101

Re: AAA Rue Marche LLC d/b/a Timber. Application to add corporate officer to Class I FSE License with Outdoor Dining on Public Property at 106 Exchange St.

Dear Mr. Talmatch,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday April 6th at 7:00 p.m.** for the review of your application for to add a new corporate officer to AAA Rue Marche LLC d/b/a Timber at 106 Exchange St. 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 our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

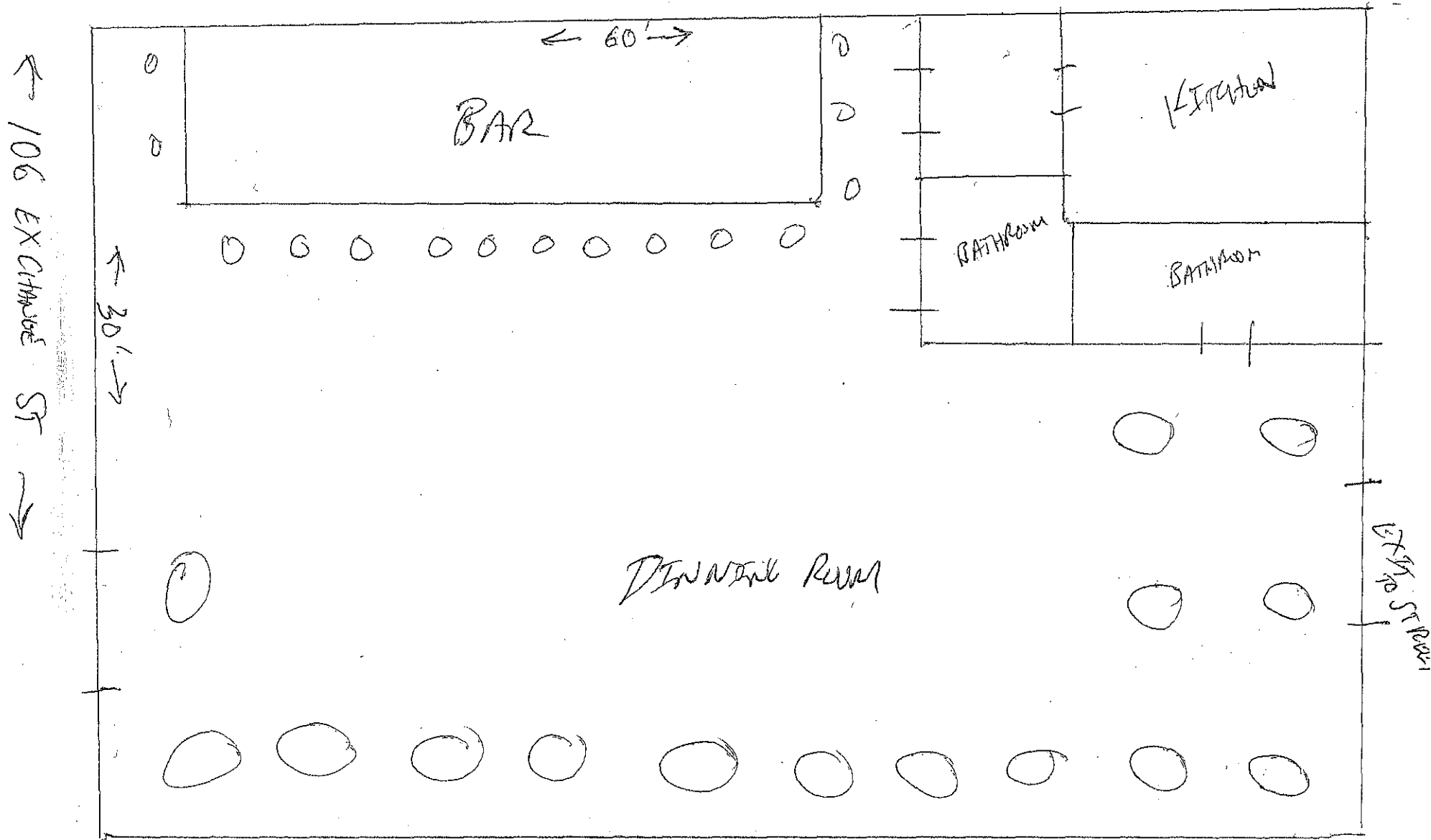
Sincerely,

Janice Gardner

Business License Administrator

207-874-8557

bl@portlandmaine.gov



FEDERAL →

Change in Entertainment License

TO: The City of Portland Clerk's Office

I, NOAH TARMAN, of AAA RUE MARCHE LLC / RBA -
owner/manager name of business TEMBER

located at 106 EXCHANGE ST.

wish to make the following changes to my current license:

☒ withdraw the Entertainment License altogether;**

☐ upgrade the Entertainment License to include DANCE;

☐ downgrade the Entertainment License to WITHOUT DANCE;

I understand City Council approval **IS** or **IS NOT** necessary for the above change.
(circle one).

**

I understand that if I choose to withdraw the Entertainment License altogether, and I want to reinstate it in the future, I will need to go back before City Council for approval and that if an Entertainment License is, at the time, held by another business within 100' (feet) of my door front, I will not be eligible. I further understand there is a clause that if I reinstate the Entertainment License within 365 days of withdrawing, I will be grandfathered.

Signature

Date

8/6/15

*** Prime Black Angus
New York Steak 16oz**

Cabernet Demi \$49

*** Cowboy T-Bone 16oz**
Cabernet Demi \$42

*** Black Angus
Steak Au Poivre 16 oz**

Prime NY Steak with Bourbon
Peppercorn Sauce \$49

*** Filet Mignon 10 oz**
Béarnaise Sauce or Stilton
Cheese \$41

*** Tender Black
Angus Ribeye 24 oz**
\$58

*** 2 Lbs. Black
Angus Porterhouse**
\$79

*** Pan Seared
Duck Breast 10 oz**
Classic Duck L'Orange Sauce \$31

*** Timber Wagyu
Beef Burger**
Lettuce, Tomato, Cheddar, Brioche
Bun \$16 (Add Bacon \$3, Portobello
Mushrooms \$3, Grilled Onions
\$2, Fried Duck Egg \$5, Stilton Blue
Cheese \$3, Foie Gras \$8)

CHEF'S SPECIAL

Bourbon Marinated Steak Tips with Maple Roasted Carrots over Sweet Pea Pureé **8 oz \$36**

Extra-rare or Blue: very red and cold
Rare: cold red center; soft
Medium rare: warm red center; firmer

Medium: pink and firm
Medium well: small amount of pink in the center
Well done: gray-brown throughout; firm

SLOW ROASTED ROTISSERIE CHICKEN

Half \$19 or Whole Chicken \$28

Served with your choice of any two dipping sauces:

L'Orange

Chili Piquante

Blue Cheese & Bacon

Mushroom Marsala

Thai Peanut

Honey Mustard

Tomato, Balsamic,
Parmesan, Garlic
& Basil

Bourbon Peppercorn

BBQ

Lemon Garlic

Béarnaise

SEAFOOD

*** Grilled Salmon**

Bourbon, Honey Dijon, Marinated Cucumber, Garlic
and Cherry Tomatoes Market Price \$28

*** Sautéed Bay Scallops**

Olive Oil, Garlic, Shallots, Lemon, White Wine, Fresh
Oregano, Corn Puree \$32

*** Catch of the Day** \$ Market Price

SIDES

Baked Potato, Sour Cream,
Butter & Chives \$6

Potato Gratin \$8

Creamed Corn \$7

Thick Cut Onion Rings \$8

Sautéed French Green Beans & Bacon \$8

Creamed Spinach \$7

Hand Cut French Fries \$7

Roasted Yukon Gold Potatoes, Soaked
in Veal Stock, with Bacon Bits and
Toasted Gruyere Cheese \$8

Grilled Portabella Mushrooms \$7

Jalapeño Butter Cornbread \$10

Broccoli Rabe \$6

Vegetable of the day

Shrimp Cocktail

6 Jumbo Shrimp, Classic Cocktail Sauce \$18

Grilled Cajun Spiced Shrimp & Bay Scallop Skewer \$16

*** Steak Tartare**

4oz Ground Black Angus Tenderloin, Anchovy,
Raw Egg Yolk, Onions, Parsley, Shallots, Garlic,
Dijon Mustard \$15

Sautéed Calamari

Black Sambuca, Squid Ink Broth, Shaved
Fennel, Orange Slaw & Parsley \$16

Crispy Fried Calamari

Tempura Batter \$16

Foie Gras 3 oz

Pan Seared Duck Liver with Poached Pear,
Pear Purée, Balsamic Reduction, Crustini \$21

Wagyu Beef Cupcakes

Wild Mushroom Mousse, Green Beans &
Goat Cheese Crème \$16

*** Hawaiian Style Spicy**

Poké Tuna Tartare

Crispy Wontons, Soy Sauce, Sesame Oil,
Sriracha Chili Aioli, Scallions, Tobiko,
Sesame Seeds, Micro Green Slaw \$16

Smoked Mac & Cheese

Elbow Macaroni, Smoked Gouda, Pepper Jack, Parmesan,
Cheddar, Panko Bread Crumbs, Jalepeño \$12

Buffalo Chicken Croquettes

Chicken, Blue Cheese, Garlic, Celery, Panko Bread Crumbs,
Onion, Parsley, Hot Sauce \$14

Sautéed Bay Scallops

Extra Virgin Olive Oil, Garlic, Shallots,
Lemon, Corn Purée, White Wine Fresh Oregano \$16

Lobster Trap Dip

Fresh Maine Lobster, Artichoke Hearts, Roasted Corn,
Onions, Celery, Cream Cheese, Garlic & Crispy Wontons \$16

Portland Harbor Crab Cakes

Baby Spinach, Lemon & Basil Aioli, Sliced Shallots \$16

Thai Curry Mussels

Coconut Curry, Pork Belly, Bok Choy, Cherry Tomatoes,
Garlic, Shallots, White Wine and Toasted Baguette \$16

Batter Dipped, Fried Bacon Strips with Maine Maple Syrup \$11

Hand Cut French Fries \$7

Thick Cut Onion Rings \$8

Pan Baked Jalpeño Cornbread \$10

SOUP

Chilled Gazpacho

Vine Ripened Tomatoes, Lemon, Cucumber, Garlic,
Shallots, Green Peppers, Avocado, Olive Oil, Cilantro
& Sherry \$10

French Onion Soup

Toasted Bread, Melted Gruyere Cheese \$10

Soup du Jour \$10

SALAD

Caesar

Romaine Leaf, Chopped Anchovy,
Parmesan, Garlic Cheese
Croutons, Classic Caesar
Dressing \$13 (add Chicken \$6)

Wedge

Iceberg Lettuce, Tomato,
Crumbled Stilton Blue Cheese,
Fried Bacon Lardons, Blue

Chinese Chicken

Rotisserie Chicken,
Romaine Lettuce, Bok Choy,
Cabbage, Snow Peas,
Cilantro, Roasted Spicy
Candied Peanuts, Scallions,
Carrots, Sesame Seed,
Sesame Oil, Chili peppers,
Sesame Ginger Dressing

Cobb

Chopped Iceberg Lettuce, Egg, Bacon,
Avocado, Blue cheese, Chicken Breast,
Diced Tomato, Red Wine Vinaigrette or
Blue Cheese Dressing \$14

Caprese

Vine Ripened Tomatoes, Fresh Basil,
Mozzarella, Arugula, Extra Virgin Olive
Oil, Sea Salt, Cracked Pink Peppercorn,

Cabernet Sauvignon, Arabella, South Africa \$11 / \$43
Cabernet Sauvignon, Ramsay, North Coast CA \$11 / \$43
Cabernet Sauvignon, Cannonball, CA \$11 / \$43
Sangiovese, Donna Laura, Toscana Italy \$10.50 / \$41
Syrah, Drops of Jupiter, CA \$11 / \$43
Bordeaux, La Croix Du Duc, France \$14 / \$55
Cotes du Rhone, Bouquet, France \$11 / \$43
Shiraz, Arabella, South Africa \$11 / \$43
Rioja, Burgo Viejo Crianza, Spain \$10 / \$39
Pinot Noir, Montinore, Willamette Valley OR \$14 / \$55
Pinotage, The Bean, South Africa \$11 / \$43
Malbec, Michel Torino, Don David, Spain \$14 / \$55
Zinfandel, Ghost Pines, Napa CA \$14 / \$55
Malbec, Navaro Correias, Argentina \$11 / \$43
Pinotage, False Bay, South Africa \$12 / \$47
Malbec, Raffy Reserve, Argentina \$14 / \$55

Cabernet Sauvignon, Bliss, Mendocino CA \$49
Zinfandel, Seghesio, Sonoma County CA \$49
Merlot, Charles Krug, Napa Valley CA \$55
Cabernet Franc, Valdivieso Old Vine, Italy \$64
Chateaufeuf, Du Pape, Chapelle St Arnoux, France \$69
Zinfandel, Frogs Leap, Napa Valley CA \$68
Cabernet Sauvignon, Alexander Valley, CA \$72
Pinot Noir, Domaine Carneros CA \$75
Barbaresco, Produttori, Italy \$80
Merlot, Stags Leap, Napa Valley CA \$80
Barolo, Damilano, Italy \$80
Shiraz, Penfolds Bin 28 Kalima, Australia \$85
Amarone, Tenuta Fiorebelli, Italy \$90
Amarone Marega, Italy \$90
Bordeaux, Lalande de Pomerol, Chateau Garraud, FR \$90
Amarone Valpolicella, Tedeschi, Italy \$95
Cabernet Sauvignon, Frogs Leap, Napa Valley CA \$95
Amarone, Zenato, Italy \$110
Barolo, Ratti Marzenasco, Italy \$125
Barbaresco, Pietro Rinaldi, Italy \$130
Merlot, Duckhorn, Napa CA \$140
Barolo, Petro Rinaldi, Piemonte, Italy \$150

Excellent

WHITE WINES

By The Glass or Bottle

Albarino, Condes de Albarei, Spain \$10 / \$39
Rose, Cotes de Provence, Marius Peyol, FR \$10 / \$39
Sauvignon Blanc, La Fortuna, Chile \$10 / \$39
Chardonnay, Vistamar Brisa, Chile \$10 / \$39
Gruener Veltliner, Anton Bauer, Austria \$11 / \$43
Chardonnay Muscat Blend, Stepping Stone, White Rocks, North Coast CA \$11 / \$43
Chardonnay, Ryan Patrick Reserve, WA \$13 / \$49
Sauvignon Blanc, Smoke Stack, New Zealand \$11 / \$43
Chardonnay, Butter, Jam Cellars, CA \$12 / \$46
Pinot Grigio, Terlano Alto Adige Italy \$12 / \$46
Riesling, Egon Muller, Slovakia \$10 / \$39
Torrontes, Michel Torino, Don David, Spain \$12 / \$46
Sauvignon Blanc, Mohua, New Zealand \$11 / \$43
Sancerre, Durand, France \$14 / \$55
Pinot Grigio, Perlage, Italy \$10 / \$39
Sauvignon Chenin Blanc, Lemon Grass, South Africa \$10 / \$39
Prosecco, Maschio, Italy 187ml \$14
Champagne, Moet Imperial France 187ml \$21
Cava, Naveran Brut, Spain 750ml \$40 bottle only

Exceptional Reserve

WHITE WINES

By the Bottle

Riesling, Willm Reserve, Alsace France \$41
Chardonnay, Chloe, Sonoma County CA \$41
Pinot Gris, Canoe Ridge Expedition, WA \$46
Pinot Gris, Elk Cove, Willamette Valley, OR \$49
Pouilly Fuisse, Mathilde Lafleur Petite Chapelle FR \$59
Chablis, Albert Bichot, France \$60
Rose, Chateau Mirival, France \$65
Chardonnay, Ferrari Carano, Sonoma CA \$65
Chardonnay, Simi, Sonoma County CA \$65
Pinot Gris, La Crema, Monterey CA \$68
Pouilly Fume, Kermit Lynch, Regis Minet, France \$74
Chardonnay, Sonoma Cutrer Russian River Estate CA \$74
Sancerre, Chateau de Sancerre, France \$80
Chardonnay, Reserve, Buehler Vineyards Napa Valley \$80
Gewurztraminer, Trimbach, Alsace, France \$80
Chardonnay, Frogs Leap, Napa Valley CA \$80
Puligny Montrachet, Joseph Drouhin, France \$110
Mersault, Albert Bichot, France \$110

CHAMPAGNE

Champagne, Mumm Cordon Rouge France NV \$80
Champagne, Veuve Clicquot, '04 France \$130

Champagne, Dom Perignon '03 France \$250
Champagne Cristal, Roederer '05 France \$350

To Complement Our Expertly Crafted Cocktails. All Fruit Juices Are Fresh, Pressed Daily In Our Kitchen. We Insist On Serving Only The Very Best To Our Valued Guests. Enjoy!

Espresso Martini

Madagascar Bourbon Vanilla Bean
Infused Absolut Vodka, Kahlua,
Espresso & Simple Syrup \$12

**Cucumber
Gin Martini**

Bulldog London Dry Gin,
Pressed Cucumber, Fresh Basil,
Lemon Juice & Simple Syrup \$12

Boulevardier

Bulldog Rye, Campari,
Carpano Antiqua \$12

Bourbon Lift

Bulldog Bourbon, Kahlua, Orgeat
Syrup, Touch of Crème \$11

**Timber
Old Fashioned**

Jim Beam, Orange, Lemon,
Brandied Griotte Cherries, Bitters
& Simple Syrup, Sugared Rim \$11

**Ginger
St. Germain**

St Germain Elderflower Liqueur,
Gingered Simple Syrup, Prosecco,
Bitters & Sugar Cube \$14

Mancini Martini

Makers Mark Bourbon, Crème de
Cacao, Dubonnet & Orange Bitters \$11

**Orange
Creamsicle Martini**

Madagascar Bourbon Vanilla Bean
Infused Absolut Vodka, Orange Juice
& Touch of Crème \$12

New York Sour

Knob Creek Bourbon, Lemon
Juice, Simple Syrup & Touch
of Cabernet \$11

Presbyterian Collins

Woodford Reserve Bourbon, Gingered
Simple Syrup, Ginger Ale \$12

Margarita

El Culo Toros

Patron Silver Tequila, Fresh
Lemon, Lime & Orange Juice,
Grand Marnier, Rock Salt \$12

Soul Kiss

Jack Daniels, Dry Vermouth,
Dubonnet, Orange Juice &
Griotte Cherry \$12

**Whiskey
Smash**

Wild Turkey 100 Proof, Fresh Mint
Leaf, Lime & Simple Syrup \$11

Ward Eight

Makers Mark Bourbon, Lemon &
Orange Juice, Grenadine \$11

Negroni

Bulldog London Dry Gin, Campari,
Sweet Vermouth, Griotte Cherries,
Orange Peel \$11

Bosc

Pear Martini

Absolut Pear Vodka, Lemon Juice,
Fresh Pear Purée & Simple Syrup
\$12

**Strawberry
Mojito**

Bacardi White Rum, Fresh
Strawberry Purée, Fresh Mint
Leaf, Simple Syrup & Splash
of Soda \$11

**Winston Churchill's
Bloody Mary**

Bulldog London Dry Gin,
Absolute Peppar Vodka,
Horseradish, Pepper, Celery Salt,
Tomato Purée, Worcestershire,
Lemon, Chili Fire Water \$12

Fy Fan Martini

Absolute Cilantro, Lime & Lemon

Business Licensing - TIMBER Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 3/10/2015 12:49 PM
Subject: TIMBER Business License Approval

TIMBER is Approved for their Business License Inspection by the Police Dept.

Date: 3/10/2015

Zone:

Comments: Adding corporate officer.

Lt. Gary L Hutcheson
Portland Police Department
109 Middle St
Portland, Maine 04101
(207) 756-8295



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)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C428989

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-10) :

Inquiries Name(s) DANIEL TALMATCH (1961-05-27)

NO MATCH WAS FOUND FOR YOUR REQUEST.

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

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

*Order 196-14/15
Tab 17 4-6-15*

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Portland House of Music and Events LLC d/b/a Portland House of Music and Events.
Application for an Auditorium License with Entertainment with Dance and Outdoor
Dining on Public and Private Property at 25 Temple St.**

Business Plan Narrative for
Portland House of Music Events

Through strong support of the music community, I will open and continue the success achieved at my previous business, The Big Easy. After 8 years of successful operations at The Big Easy, my landlord and I could not come to terms on a new lease, which forced me to move on. After staying in the music scene over the past year, through booking music at Slab, and hosting local events (including receiving a standing ovation at The State Theater) I have found an improved location to continue my business of a local music venue. Since the end of my time at The Big Easy, the local music community has boycotted The Big Easy and is anxiously awaiting my return to the business, knowing that I will once again create a place that they can call H.O.M.E.

The new business location, 11 Temple St., in the heart of Portland, offers parking upstairs in the adjoined parking garage, a larger space accommodating approximately 100 more guests, and nearly 50% window frontage allowing a lot of natural light and lending itself towards expanded hours.

A handwritten signature in black ink, appearing to be 'J. H. P.' or similar, located at the bottom left of the page.

Rec'd 3/10/15
2:00pm

Portland, Maine



Yes, life's good here.

Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557

Application for Food Service Establishment with Alcoholic Beverages License

Business Information:	
Business Name (d/b/a):	Portland House of Music + Events Phone: 207 329-1923
Location Address:	25 Temple St. Portland ME Zip: 04101
If new, what was formerly at this location:	Minnotts Flower shop
Mailing Address:	25 Temple St. Portland ME Zip: 04101
Contact Person:	Ken Bell Phone: 207 329-1923
Contact Person Email:	Ken Bell Hospitality @ gmail.com
Manager of Establishment:	Ken Bell Phone: 207 329-1923
Owner of Premises (Landlord):	MHR
Address of Premises Owner:	33 Silver St. Portland ME Zip: 04101

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
Portland House of Music and Events LLC		25 Temple St. Portland ME 04101	
Contact Person:	Ken Bell	Phone:	207 329-1923
Principal Officers	Title	Date of Birth	Residence Address
Ken Bell II	Owner/Operator	8-30-76	372 Broadway #4 S. Portland ME 04106
Jamie Isaacson		9-24-54	St. Lawrence St. Portland ME 04101
Maureen Miller		10-28-49	Kingsport TN 37663

About Your Establishment

Class of Liquor License:	Auditorium	
Type of food served:	Deli sandwiches + Appetizers	
Please circle all that will be served:	Beer Wine Liquor	
Projected percentage of sales:	Generated from Food: 20%	Generated from Alcohol: 80%
Hours & days of operation:	11 am - 1 am Mon-Fri 6pm - 1am Sat+Sun	

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	Y(N)
If No, please explain: Deli Sandwiches and Appetizers All hours, some flatware will be needed	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	Y(N)
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	Y(N)
Will you permit dancing on the premises?	Y(N)
Will you permit dancing after 1:00 a.m.?	Y(N)
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	Y(N)
If yes, will the outside dining be on PUBLIC or PRIVATE property (circle one).	Both
Will you have any amusement devices (pinball, video games, juke box)?	Y(N)
If yes, please list: # of pinball machines: # of amusements: # of pool tables:	
What is your targeted opening date?	5-25-15
Does the issuance of this license directly or indirectly benefit any City employee(s)?	Y(N)
Yes, list name(s) of employee(s) and department(s):	N/A
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y(N)
If Yes, please list business name(s) and location(s):	
The Big Easy 55 Market St. Portland ME	
Is any principal officer under the age of 21?	Y(N)
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	Y(N)
OUT	
If Yes, please explain:	
2001	

I Ken Bell do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

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/Operator Date 3-6-15

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-OPTINONAL 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: Auditorium

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>Portland House of Music + Events LLC</u> DOB: _____				2. Business Name (D/B/A) <u>Portland House of Music + Events</u>			
DOB: _____							
DOB: _____				Location (Street Address) <u>25 Temple St.</u>			
Address <u>25 Temple St.</u>				City/Town <u>Portland</u>		State <u>ME</u>	
				Zip Code <u>04101</u>			
				Mailing Address <u>25 Temple St.</u>			
City/Town <u>Portland</u>		State <u>ME</u>		City/Town <u>Portland</u>		State <u>ME</u>	
Zip Code <u>04106</u>				Zip Code <u>04101</u>			
Telephone Number <u>(207) 329 1923</u>		Fax Number _____		Business Telephone Number _____		Fax Number _____	
Federal I.D. # <u>47-2580585</u>				Seller Certificate # _____			

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: Ken Bell

8. If business is NEW or under new ownership, indicate starting date: 5-25-15

Requested inspection date: 5-15-15 Business hours: 11-1am M-F 6-1am Sat+Sun

9. Business records are located at: 25 Temple St.

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
Kenneth B. Bell Kenneth B. Bell II	8-30-76	Leamington ME

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

Portland ME
South 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: Kenn Bell Date of Conviction: 2001

Offense: OUI Location: Androscoggin County

Disposition: Guilty

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) Music Venue

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? 2 Blocks 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: Bank, investors,

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 3-6-15, 20 15
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

Portland House of Music and Events LLC

2. Other business name for your entity (DBA), if any:

Portland House of Music and Events

3. Date of filing with the Secretary of State: 12-20-2014

4. State in which you are formed: Maine

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
Kenneth B. Bell II	S. Portland since 2006	8-30-76	61%
	Lyman Maine Feb 2010-June 2010		
Jamie Isaacson	St. Lawrence St. Portland ME	7-24-54	19%
Doraleen Miller	Kingsport TN 37663	8-28-49	20%

7. Is any principal person involved with the entity a law enforcement official?

Yes

☐

No

☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☒ No ☐

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: Ken Bell

Date of Conviction: 2001

Offense: OUI

Location of Conviction: Androscoggin County

Disposition: Guilty

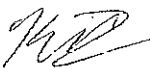
Signature:



Signature of Duly Authorized Person

2-6-15

Date



Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To: Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov

2nd 3/10/15

2:00pm

\$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): Portland House of Music and Events

Location Address: 25 Temples St. Portland ME ZIP 04101 Phone (207) 329-1923

Will music be electric or acoustical or both? both

Will amplification used? Yes ☒ No ☐

If yes, where and at what level? inside under 92 decibels

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? 1+ blocks

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

Music Venue

If new applicant, what is your targeted opening date? : 5-25-15

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

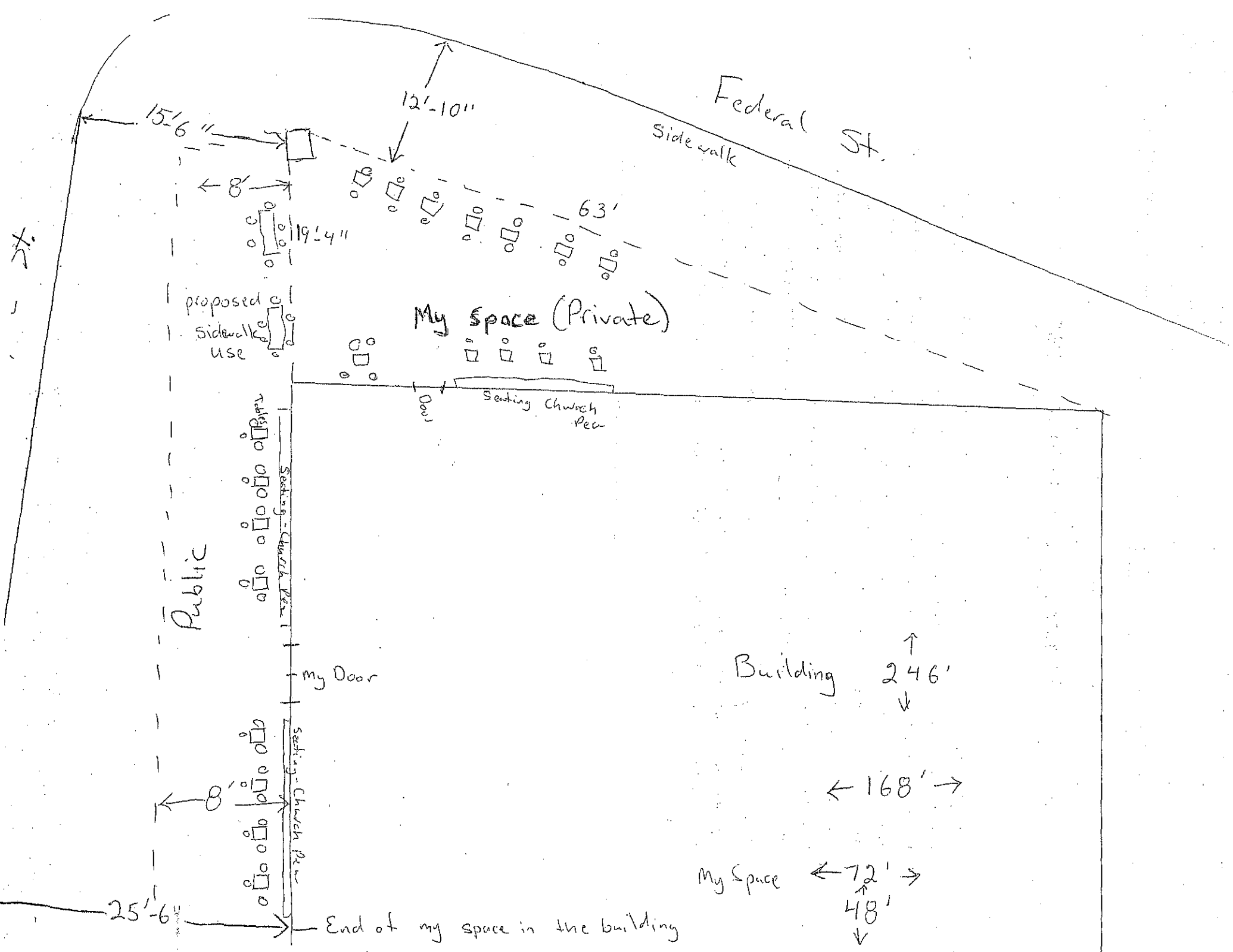
If yes, list names of employee(s) and department(s). _____

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 [Signature] Title Owner/Operator Date 3-6-15



H.O.M.E. Made

Light Snacks

Sriracha Hummus

*Served with fresh vegetables
and pita chips*

Siracha Pickles

*Fresh cucumbers pickled in house with
Siracha*

Spicy Soppressata

*Locally made spicy dry
salami sliced thin*

H.O.M.E. Marinated Olives

*A variety of house marinated
olives*

Sandwiches

H.O.M.E. Spice

*Rare Roast Beef with
our own Sriracha hummus
red onion and cheddar*

Our Muffuletta

*Marinated olives, mortadella, salami,
mozzarella, ham, and provolone*

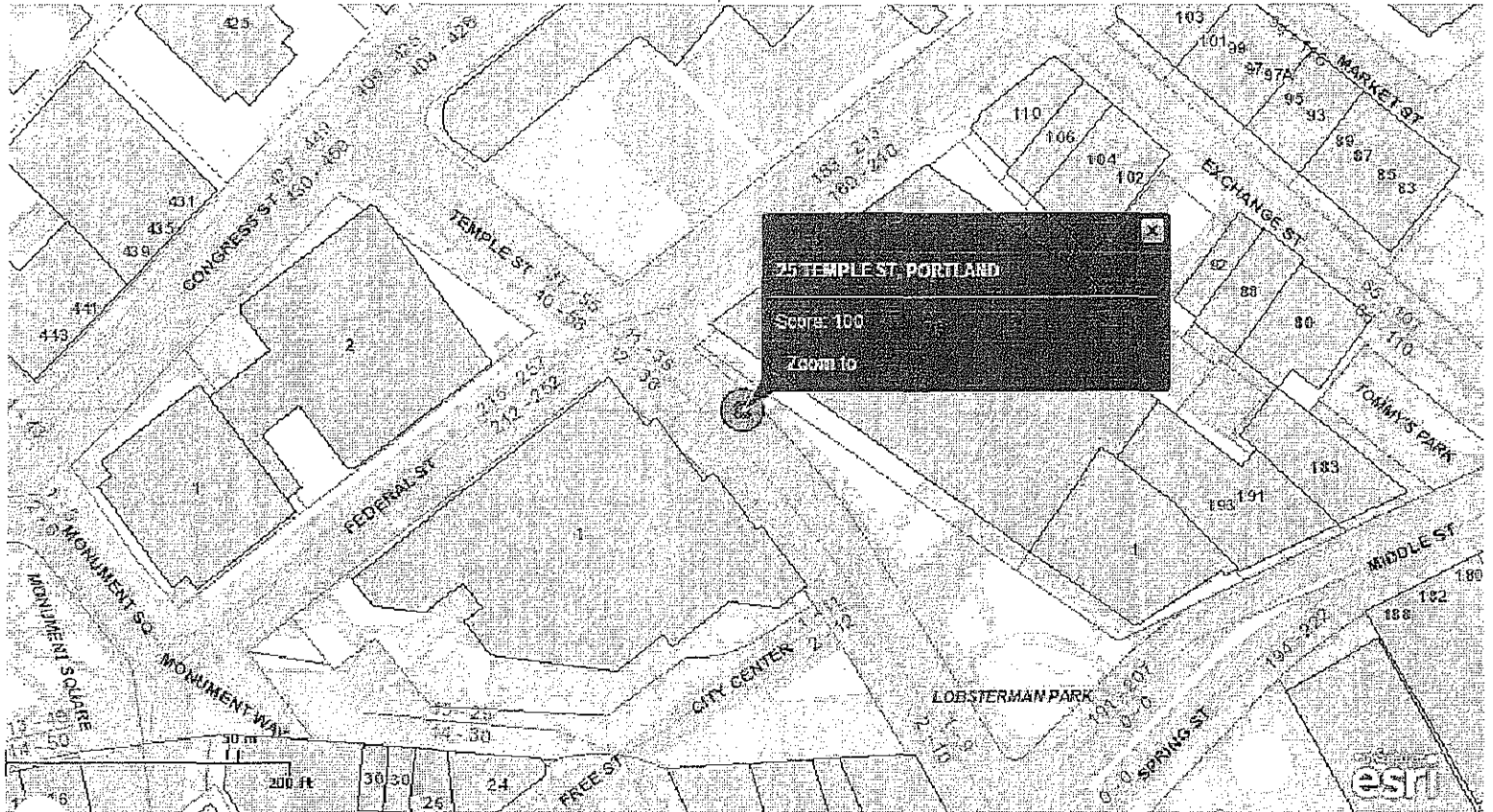
Humble Hummus

*Sriracha Hummus,
provolone, red peppers,
red onion*

Set list

*All of our meats piled high on top of our
Sriracha hummus*

My Map



ght 2011 Esri. All rights reserved. Tue Mar 24 2015 08:45:17 AM.

Portland, Maine



Yes. Life's good here.

Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

March 24, 2015

Portland House of Music and Events

Attn: Kenneth Bell

372 Broadway #4

South Portland, ME 04106

Re: Portland House of Music and Events LLC d/b/a Portland House of Music and Events.
Application for an Auditorium license with Entertainment with Dance and Outdoor
Dining on Public and Private Property at 25 Temple St.

Dear Mr. Bell,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, April 6th at 7 p.m.** for the review of the application for an Auditorium License with Entertainment with Dance and Outdoor Dining on Public and Private Property for Portland House of Music and Events LLC d/b/a Portland House of Music and Events at 25 Temple St. 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 our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner

Business License Administrator

207-874-8557

bl@portlandmaine.gov



Outdoor Dining Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

☒ New Application for Outside Dining ☐ Renewal Application for Outside Dining		
City Clerk signature for liquor license approval: _____ Pending Council Date:		
Location Name & Address: Portland House of Music and Events 25 Temple St. Portland ME 04101		Chart Block Lot
Owner & Phone #: Ken Bell (207) 329-1923		Total Square Footage of Proposed Seating Area: ¹ 616 city 570 mince =
Applicant *must* be owner or lessee Name: Ken Bell Address: 25 Temple St. City, State & Zip: Portland ME 04101 E-Mail: Ken Bell Hospitality @ gmail.com		Annual Fee: \$80 Total Sq. Ft.: _____ Sq. Ft. Fee: (sq ft x \$2) \$ _____ (Due when issued) Total Fees: \$ _____ (Permit not issued until all fees are paid)
Current use: Music Venue		
Business name: Portland House of Music and Events		
Seating area dimensions: _____		
How many chairs? 60 How many tables? 24		
☒ Yes Alcohol is served. ☐ No Alcohol being served.		
Who should we contact for the pre-inspection: Ken Bell		
Mailing address: 372 Broadway S. Portland Phone: (207) 329-1923		

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant: [Signature] Date: 3-9-15

¹ In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.

This is not a permit; you may not commence ANY work until the permit is issued.

IBC OCCUPANCY CALCULATION			
OCCUPANCY LOAD	TOTAL SQUARE FOOTAGE	FLOOR AREA IN SF PER OCCUPANT	TOTAL OCCUPANTS
STANDING SPACE	1284 SF	6 NET	214
UN-CONCENTRATED ASSEMBLY SPACE	34 SF	15 NET	7
BUSINESS AREA	404 SF	100 GROSS	5
KITCHENS	247 SF	100 GROSS	2
PLATFORM	200 SF	15 NET	13
MERCANTILE	47 SF	60 GROSS	1
STORAGE	193 SF	300 GROSS	1
TOTAL OCCUPANCY			234

NFPA OCCUPANCY CALCULATION			
OCCUPANCY LOAD	TOTAL SQUARE FOOTAGE	FLOOR AREA IN SF PER OCCUPANT	TOTAL OCCUPANTS
CONCENTRATED ASSEMBLY	1284 SF	6 NET ALLOWED	214
UN-CONCENTRATED ASSEMBLY SPACE	34 SF	15 NET	7
BUSINESS	404 SF	100 GROSS	5
KITCHENS	247 SF	100 GROSS	2
STAGES	200 SF	15 NET	13
STORAGE	193 SF	300 GROSS	1
MERCANTILE	47 SF	30 NET	1
TOTAL OCCUPANCY			236

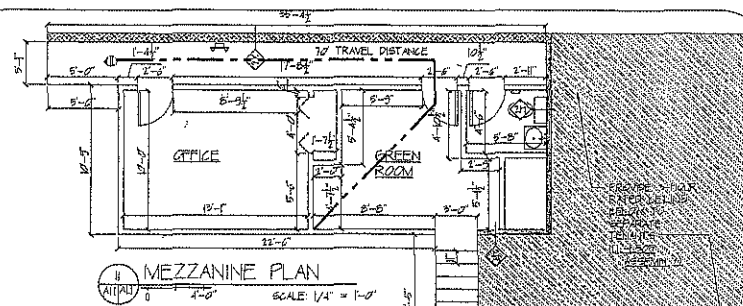
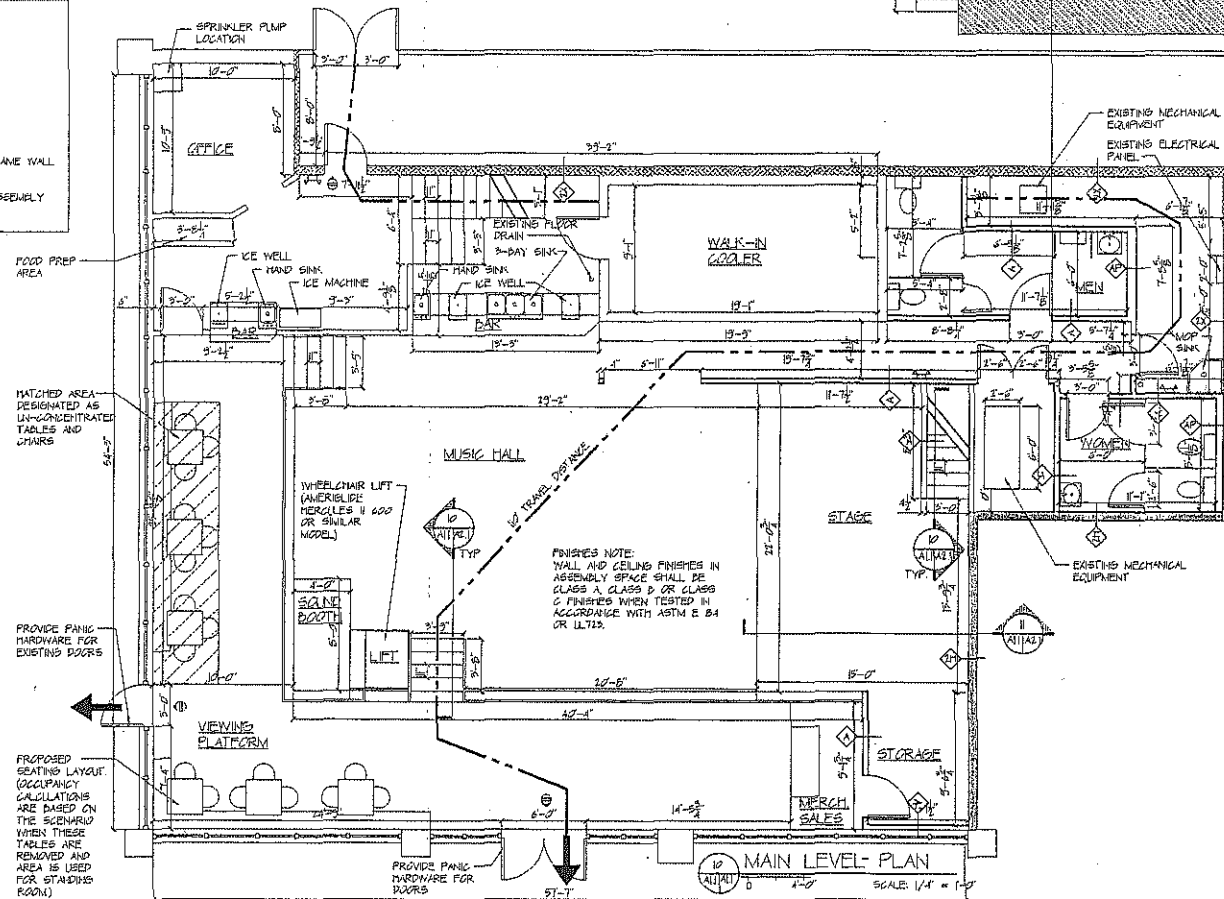
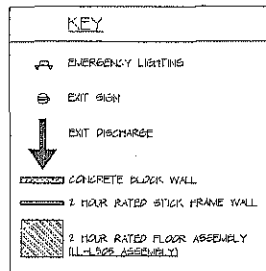


Bild Architecture
1000 1st Ave
Portland, ME 04101
508.496.0188
www.bildarchitecture.com

PERMITTING DOCUMENTS

PROJECT NO. **14034**
PROJECT NAME **TEMPLE STREET MUSIC VENUE**

ISSUE DATE **11/21/14**
DRAWN BY **EAC**
SHEET TITLE **PROPOSED PLAN**

REVISIONS
1 02/25/15
2 02/25/15
3 02/25/15

A
1.1

Business Licensing - PORTLAND HOUSE OF MUSIC & EVEN Business License Approval

From: Gary Hutcheson
To: Business Licensing
Date: 3/10/2015 4:34 PM
Subject: PORTLAND HOUSE OF MUSIC & EVEN Business License Approval

PORTLAND HOUSE OF MUSIC & EVEN is Approved for their Business License Inspection by the Police Dept.

Date: 3/10/2015

Zone:

Comments: Approved.

Lt. Gary L Hutcheson
Portland Police Department
109 Middle St
Portland, Maine 04101
(207) 756-8295



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

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C429563

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-10) :

Inquiries Name(s) JAMIE ISAACSON (1954-09-24)

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)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C429566

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-10) :

Inquiries Name(s) DORALEEN MILLER (1949-10-28)

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)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C429558

Criminal History Record

Introduction

This criminal history record was produced in response to the following request
(Produced on 2015-03-10) :

Inquiries Name(s) KENNETH BELL (1976-08-30)

The information in this criminal history record is provided subject to the following caveats:

Important! When a criminal history record and juvenile crime information record check is processed by the State Bureau of Identification using personal identifiers such as name and date of birth, it is possible that the record supplied belongs to another person with the same or essentially similar name and date of birth. Confirmation that convictions relate to person whose record has been requested requires fingerprint comparison. If the information contained in this response will be used to disqualify an applicant for employment, housing, credit, or other benefits or programs, the person making the eligibility determination using this record should provide the applicant with an opportunity to complete or contest the accuracy of the criminal history information in the response. An individual may request amendment or correction of criminal history record information by a criminal justice agency pursuant to 16 M.R.S. section 709.

**THIS RESPONSE IS BEING PRODUCED FOR YOUR REQUEST SENT: 2015-03-10

This record, effective September 1, 2000, contains information relating to persons arrested as fugitives from justice, 15 M.R.S section 201.4 or arrested or charged with Maine crimes. It does not include former crimes no longer classified as criminal, or Class D and E crimes in Title 12 or Title 29-A, former Title 29, unless the crime is alcohol-related or drug-related 25 M.R.S. section 1541.4-A.A. For information regarding excluded Marine Resources crimes in

Title 12, contact the Department of Marine Resources. For information regarding excluded Inland Fisheries and Wildlife crimes in Title 12, contact the Department of Inland Fisheries and Wildlife. For information relating to excluded crimes in Title 29-A former Title 29, contact the Secretary of State, Motor Vehicle Division. A list of former crimes is available from this Bureau.

THE FOLLOWING ATN(S) ARE UNSUPPORTED BY FINGERPRINTS IN STATE BUREAU OF IDENTIFICATION FILES: (483705A).

Identification

Subject Name/or potential Alias Name(s)

BELL, KENNETH

Subject Description (date information provided listed in parentheses)

State ID Number

ME0110122

DOC Number

Unknown/NA

Sex

Unknown/NA

Race

Unknown/NA

Skin Tone

Unknown/NA

Height

Unknown/NA

Weight

Unknown/NA

Date of Birth

1976-08-30

Hair Color

Unknown/NA

Eye Color

Unknown/NA

Scars, Marks, and Tattoos

Unknown/NA

Place of Birth

Unknown/NA

Citizenship

Unknown/NA

Residence

Residence as of
Address

2006-07-26
67 REVERE ST. #3
PORTLAND, ME

Caution Information

Firearms Disqualified

C - Cleared

Criminal History

Cycle 001

ATN/Tracking Number 483705A
 Earliest Event Date 2001-04-30

Arrest/Charge (Cycle 001)
 Arrest/Charge Date 2001-04-30
 Arresting/Charging Agency PORTLAND PD; ME0030500
 Subject Name(s) BELL, KENNETH
 Arrest Type Adult
 Charge 1

Charge Number 483705A 001
 Charge Tracking Number 483705A
 Charge Case Number ME01-4878
 Agency PORTLAND PD; ME0030500
 Offense Date 2001-04-30
 Charge Description OPERATING UNDER THE INFLUENCE
 Statute 29-A MRSA SUBSECTION 2411(1)
 State Sequence Code 1197
 Severity Misdemeanor

Prosecutor Disposition No data supplied

Court Disposition (Cycle 001)
 Court Case Number CR 2001-03614
 Court Agency 9TH DISTRICT COURT PORTLAND; ME003035J
 Charge 1

Charge Number 483705A 001
 Charge Tracking Number 483705A
 Agency 9TH DISTRICT COURT PORTLAND; ME003035J
 Offense Date 2001-04-30
 Charge Description OPERATING UNDER THE INFLUENCE
 Statute 29-A MRSA SUBSECTION 2411(1)
 State Sequence Code 1197
 Severity Misdemeanor
 Disposition 2001-07-19; GUILTY

Sentencing (Cycle 001)
 Sentencing Agency 9TH DISTRICT COURT PORTLAND; ME003035J
 Court Case Number CR 2001-03614
 Charge Number

483705A 001

Charge Sequence Number 1

Charge Tracking Number 483705A

Sentence 2001-07-19: FINED \$600.00

2001-07-19: INCARCERATED 7 days CUMBERLAND

COUNTY JAIL - EXECUTION STAYED UNTIL: 08/03/2001

Corrections

No data supplied

Index of Agencies

Agency	9TH DISTRICT COURT PORTLAND; ME003035J
Agency Telephone	207-822-4205
Address	205 NEWBURY ST PORTLAND, ME 04101

Agency	PORTLAND PD; ME0030500
Agency Telephone	207-874-8479
Address	109 MIDDLE ST PORTLAND, ME 04111

Business Licensing - Re: PORTLAND HOUSE OF MUSIC & EVEN Business License Approval

From: Katie Johnston
To: Business Licensing
Date: 3/11/2015 2:38 PM
Subject: Re: PORTLAND HOUSE OF MUSIC & EVEN Business License Approval

The Personal property owed now is for their new location on free street. Prior they were at the temple street but that has been paid.

Katie

>>> Business Licensing 3/11/2015 2:18 PM >>>

Well, if Minott's closed and they still owe PP, that would still need to be paid before we issue the new license. It is definitely the same location.

>>> Katie Johnston 3/11/2015 12:50 PM >>>

Looks like Minott moved. My error. Portland House is all set

>>> Business Licensing 3/11/2015 12:46 PM >>>

Hi Katie,

The landlord of the business is listed as "MHR" of 33 Silver St. but I believe the owner is the City. I'm not sure which entity 584 Congress St. LLC is...

Janice

>>> Katie Johnston 3/11/2015 12:43 PM >>>

PORTLAND HOUSE OF MUSIC & EVEN is Denied for their Business License Inspection by the Treasury Dept.

Date: 3/11/2015

Zone:

Comments: I have that Minotts Flowers was considered 145 Free Street. They owe for 2015 Personal Property in the amount of \$294.20 Account #6789. Also if this is indeed the same location it is listed as being owed bt 584 Congress Street LLC who has an outstanding sewer in the amount of \$414.34

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

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

*Order 199-14/15
Feb 18 4-6-15*

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**Aurora Provisions Inc d/b/a Aurora Provisions Inc. Application for a Class I FSE License
at 64 Pine St.**

MAR 09 2015

11:05am

March 9, 2015

Mayor, City of Portland
Members, City Council
Portland, Maine 04101

Dear Sirs & Madams,

Please accept this letter of intent and application for a supplemental liquor license, Class I restaurant/caterer, at Aurora Provisions, 64 Pine Street.

Kindly Submitted,


Marika Kuzma Green

MAR 09 2015

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

11:05am

Application for Food Service Establishment With Alcoholic Beverages

Type of Liquor License Applying for

Class 1 - restaurant-eating

Please check one: (Corporation/LLC/Non-profit org. ☒) (Sole Proprietor ☐) (Partnership ☐)

Business Name (d/b/a): Aurora Provisions Inc Phone: 207-871-9060

Location Address: 64 Pine Street Portland ZIP 04102

If new, what was formerly in this location: _____

Mailing Address: Same ZIP _____

Contact Person: Leslie Oster Phone: 207-232-2900

Manager of Establishment: Leslie Oster Home Phone # 207-232-2900

Owner of Premises (landlord): Aurora Provisions

Address of Premises Owner: _____ ZIP _____

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

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

Corporation Name: Aurora Provisions Inc

Corporation Mailing Address: 64 Pine Street, Portland ZIP 04102

Contact Person: Leslie R. Oster Phone Number: 207-871-9060

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

Name <u>Marika K. Green</u>	Title <u>proprietor</u>	DOB <u>09.27.52</u>	Residence Address <u>29 Parris St.</u>
Name _____	Title _____	DOB _____	Residence Address <u>04101</u>
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: breakfast, lunch, prepared meals, catering

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

Percentage of sales -- Generated from Food: 80% Generated from Alcohol: 20%

Hours and Days of operation: 7 days per week

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 _____

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? : presently open

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 Maura Lynn Green Title owner Date 2/16/15

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



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.

DEPARTMENT USE ONLY

LICENSE NUMBER:

CLASS:

DEPOSIT DATE

AMT. DEPOSITED:

BY:

CK/MO/CASH:

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTINONAL 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>Aurora Provisions, Inc.</u> DOB: _____		2. Business Name (D/B/A) <u>Aurora Provisions, Inc.</u>	
DOB: _____		Location (Street Address) <u>64 Pine Street</u>	
DOB: _____		City/Town <u>Portland</u>	State <u>ME</u>
Address <u>64 Pine Street</u>		Zip Code <u>04102</u>	
City/Town <u>Portland, ME</u>		Mailing Address <u>Same</u>	
State <u>ME</u>	Zip Code <u>04102</u>	City/Town <u>Portland</u>	State <u>ME</u>
Telephone Number <u>207-871-9060</u>	Fax Number <u>207-871-9061</u>	Business Telephone Number	Fax Number
Federal I.D. # <u>01-0545073</u>		Seller Certificate # <u>10549058</u>	

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

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: Leslie Roster

8. If business is NEW or under new ownership, indicate starting date: NO

Requested inspection date: _____ Business hours: _____

9. Business records are located at: 64 Pine Street Portland, ME 04102

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
Marika Kuzma Green	09.27.52	New Jersey
Leslie Ruth Ostar	09.24.65	CT

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

Marika K. Green 29 Farns St. Portland, ME
Leslie R. Ostar 20 West St. #35 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: _____

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 block 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: _____

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 _____, 20____
Town/City, State Date

Marika Kuzma Green
Signature of Applicant or Corporate Officer(s)
Marika Kuzma Green
Print Name

Please sign in blue ink

Leslie R. Ostar
Signature of Applicant or Corporate Officer(s)
Leslie R. Ostar
Print Name



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

For Office Use Only:

License #: _____

Date Filed: _____

**Supplemental Information Required for
Business Entities Who Are Licensees**

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

Aurora Provisions, Inc.

2. Other business name for your entity (DBA), if any:

Aurora Provisions

3. Date of filing with the Secretary of State: 08.06.01

4. State in which you are formed: Maine

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
Marika K. Green	29 Paris St. Portland, ME 04101	09.27.52	100%

7. Is any principal person involved with the entity a law enforcement official?

Yes

☐

No

☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes

☐

No

☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:


Signature of Duly Authorized Person

2/16/15
Date

Manka K. Green
Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov



Bureau of Alcoholic Beverages
Division of Liquor Licensing & Enforcement
164 State House Station
Augusta, ME 04330-0164
Tel: (207) 624-7220 Fax: (207) 387-3424

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 Division requires 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 Division for liquor consumption.

See attached



Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

March 24, 2015

Aurora Provisions
Attn: Marika Green
64 Pine St.
Portland, ME 04102

Re: Aurora Provisions Inc d/b/a Aurora Provisions Inc. Application for a Class I FSE at 64 Pine St.

Dear Ms. Green,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday April 6th at 7:00 p.m.** for the review of your application for a Class I FSE for Aurora Provisions at 64 Pine St. 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 our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

aurora provisions

64 pine st. portland, me 04102 monday — saturday 8:00 - 6:30 (207) 871-9060

fax: (207) 871-9061 www.auroraprovisions.com info@auroraprovisions.com

hors d'oeuvres — hot

walnut cheddar olives.....\$18/dz

spanikopita.....\$26/dz

assorted mini quiches.....

gougères [gruyère cheese puffs].....

mini falafel with cucumber tzatziki (greek cucumber mint sauce).....

traditional chicken skewers with thai peanut sauce.....

curried potato samosas with chutney.....

savory brioche french toast with smoked ham and sour cherry chutney....

beef satay with thai peanut sauce.....

hoisin orange chicken skewers.....

lime tequila marinated chicken tenders.....

andalusian meatballs braised in sherry.....\$32/dz

apple, caramelized onion & goat cheese tarts.....

squash tarts.....

golden corn fritters with chipotle crème fraîche & jalapeño chutney.....

sweet potato latkes with crème fraîche & apple chutney.....

coconut chicken with citrus dipping sauce.....

lime & tequila marinated shrimp skewers.....

goat cheese filled risotto cakes with tapenade.....

buckwheat blini with smoked salmon and scallion crème fraîche.....

korean bbq shrimp.....

salmon cakes with wasabi sauce.....

new england fish cakes with lime tartar sauce.....

maine crab cakes with lemon caper sauce.....\$36/dz

coconut crusted shrimp with citrus dipping sauce.....

c o l d

cilantro grilled shrimp.....\$26/dz

spring rolls with ponzu dipping sauce.....

dolmades grape leaves stuffed with feta cheese, toasted walnuts and sun-

dried tomatoes.....

cucumber cups with pickled ginger cream cheese and tobiko caviar.....

deviled eggs.....\$32/dz

fig and gorgonzola bruschetta with balsamic drizzle.....

mini marinated fresh mozzarella with fresh basil wrapped with prosciutto..

vegetable nori rolls.....

shrimp and mango salad wonton cups.....

smoked salmon nori rolls with wasabi sauce.....

beef tea sandwich on raisin walnut bread with stilton walnut pâté.....\$36/dz

lacquered sesame crusted tuna on cucumber rounds with pickled ginger

cream cheese.....

marinated seared beef tenderloin on baguette rounds with horseradish

crème fraîche and caramelized red onion relish.....

buckwheat blini with caviar, lemon crème fraîche, minced red onions and

diced egg garnish.....

platters

charcuterie - a selection of house made pâtés accompanied by imported

olives, cornichon, specialty mustards, chutneys and assorted breads.

(serves 20-25). \$175

pacific rim - a pan-asian selection of vegetable nori rolls with pickled

ginger and wasabi, seared chicken skewers with thai peanut sauce and

korean bbq shrimp in a spicy asian sauce.

(serves 20-25). \$175

cheese & fruit platter - a selection of domestic and imported artisan

cheeses with fresh fruit, crackers and rustic breads.

(serves 8-12 or 20-25). \$95/\$150

dessert cheese & fruit platter - a selection of creamy and hard cheeses

with ripe fruit, assorted breads and ginger wafers.

(serves 8-12 or 20-25). \$95/\$150

vegetable crudite - an artful array filled with whole seasonal vegetables

like baby carrots, tiny zucchini, grape, red and yellow tomatoes etc., served

with a homemade dipping sauce. 48 hours notice required.

(serves 8-12 or 20-25). \$60/\$125

dipping platter - a global tasting platter of roasted red pepper hummus,

cucumber raita, indian dahl and other tasty dips served with pita chips,

assorted flat breads and vegetable spears.

(serves 20-25). \$85

southwest platter - layered refried black beans, guacamole, sharp cheddar

cheese, sour cream and guzman's peach salsa. served with tortilla chips.

(serves 20-25). \$55

petite sandwich platter - salmon gravlax with toasted nori and pickled

ginger cream cheese, cucumber and watercress with chive butter, smoked

ham with honey mustard and chutney on homemade mini biscuits and

finally, chicken, red grape and blue cheese salad on delicious homemade

white bread.

(serves 20-25). \$175

mediterranean antipasta - a colorful assortment of homemade stuffed

grape leaves, roasted red sweet peppers, marinated olives, cippolini onions,

herbed baby mozzarella, salami and assorted breads.

(serves 20-25). \$175

smoked seafood platter - aurora's house cured salmon gravlax, an

assortment of our own smoked seafood as well as locally smoked fish

garnished with red onion, capers and served with our delicious mustard dill

sauce and bread.

(serves 8-12 or 20-25). \$mkt

shrimp cocktail - large shrimp served with our own cocktail sauce and

lemon wedges.

(serves 12-15). \$95

specialty shrimp cocktail - choose from raspberry grilled smoke paprika-

sherry or rosemary-lemon, grilled and served with a sauce to complement.

(serves 12-15). \$115

assorted cookie platter - choose from two sizes, (30 or 60 bite-sized

pieces), including mini cookies and bars made right here in our kitchen.

\$35/60

assorted truffle platter - locally handmade truffles in a variety of flavors.

.\$54/96

breakfast pastry tray - homemade scones, muffins, coffee cake and

biscuits served with jam and butter.

(serves 10-12). \$45

Chef's office/storage

Retail wine

display

display

refrigerated cases

cola
retail
wine &
beer

closet

door

sign
no alcohol
beyond this point
display

display

prep table

display

display

coffee

display

display

display

display

KITCHEN
(no changes)

HALF BATH
(no changes)

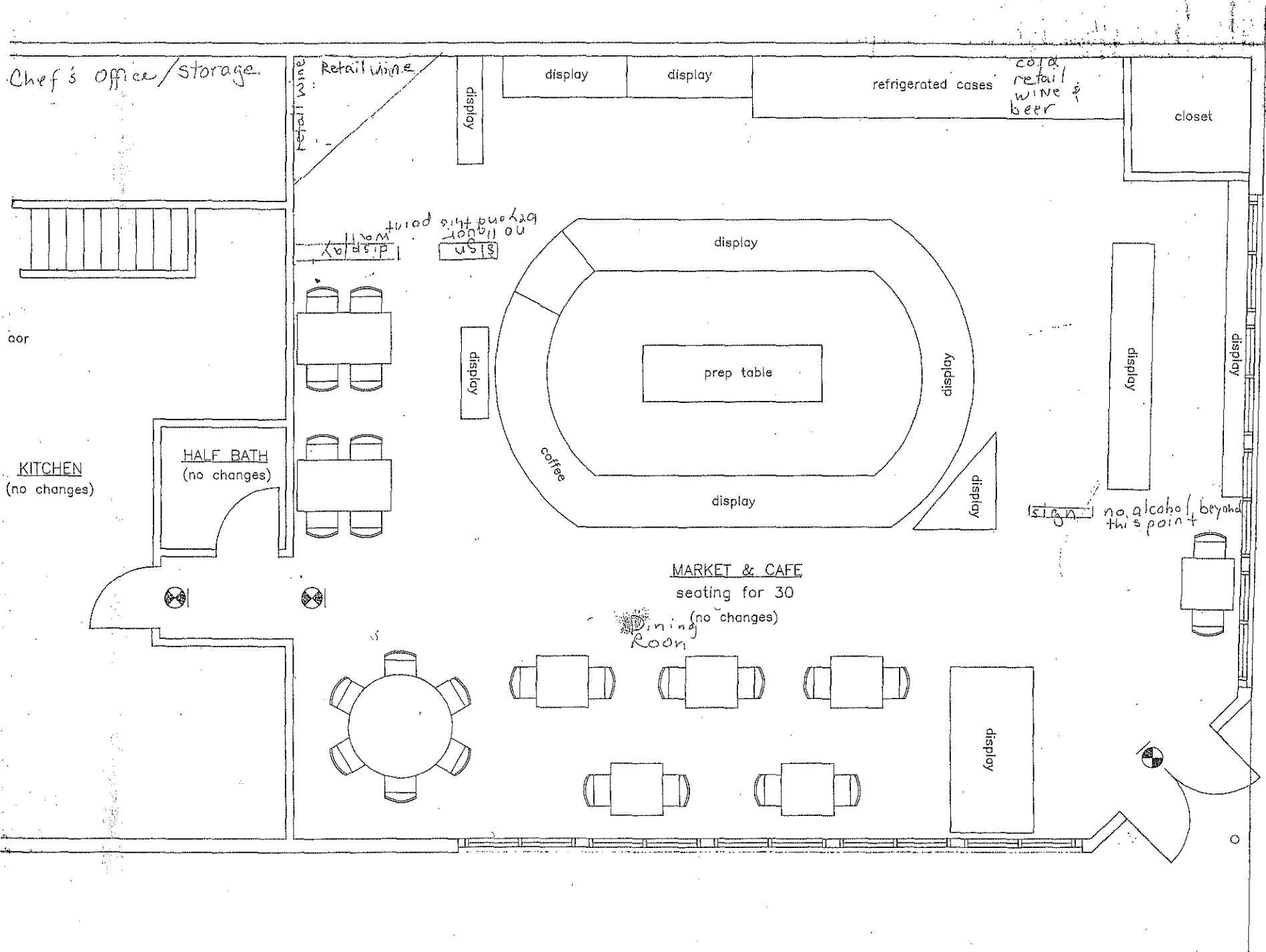
sign
no alcohol beyond
this point

MARKET & CAFE
seating for 30

(no changes)

Dining
Room

display



PROPOSED
ADDITION

WALK-IN
COOLER
(existing)

Chef's Office

51" wide hood
system above
See separate PDF

double
stack
oven

stove
fryer

wall mtd. fire
extinguisher

rack

pastry
table

prep table

reach-in
frig

36"

sliding door

prep tables

mixer

20'
KITCHEN

wall mtd. fire
extinguisher

3-boy sink
mop sink

KITCHEN
(no changes)

casement
egress window
frame size:
2'-8" x 3'-5"

OFFICE

32"

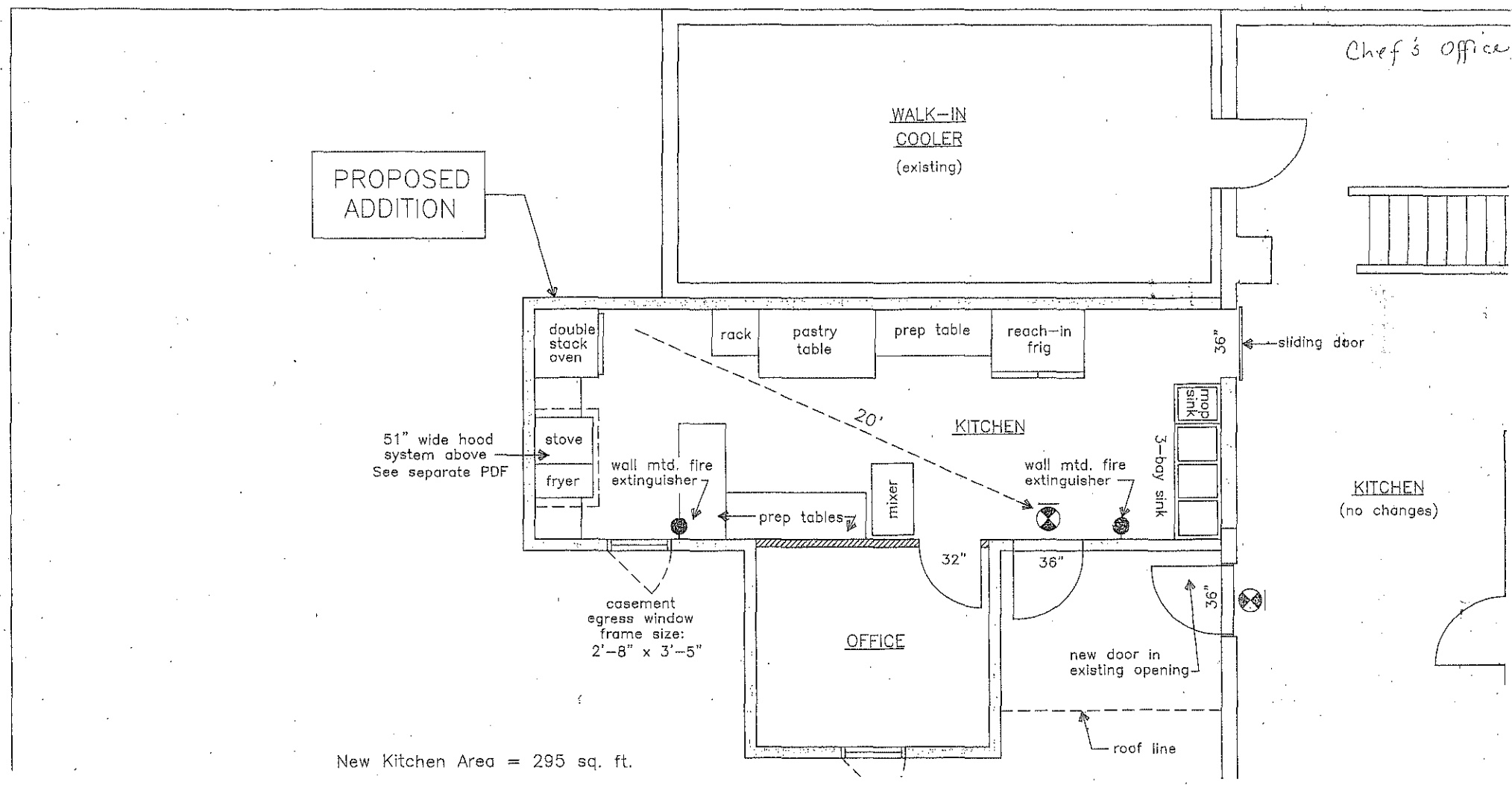
36"

new door in
existing opening

36"

roof line

New Kitchen Area = 295 sq. ft.



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

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

*Order 198-14/15
Tab 19 4-6-15*

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

AMA, LLC d/b/a Hugo's, Eventide Oyster Co., The Honey Paw. Application for a Class XI Restaurant/Lounge License with Outdoor Dining on Public Property at 88 Middle St.

March 12th, 2015

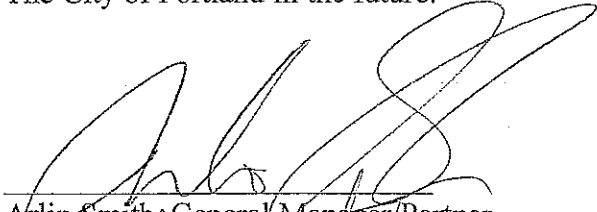
Letter of Intent:

Mayor Brennan and Members of the Portland City Council;

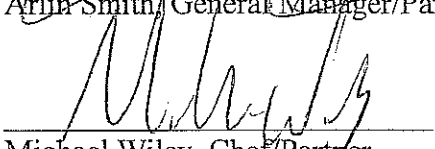
We, AMA LLC, would like to announce our intention to amend our existing Class XI FSE Restaurant/Lounge liquor license for Hugo's and Eventide Oyster Co. to include an additional dining space, named The Honey Paw. Our unique space, which occupies the entire first floor of the building at the corner of Franklin St. and Middle St., will have three separate dining rooms served from one contiguous kitchen. The Honey Paw will focus on serving noodles and pastas from around the globe in a casual and comfortable environment. It is our intention to serve full meal, diners will choose items from a menu that ranges from lighter and smaller fare to larger and more filling plates. Wine and beer will be served on tap and in bottles and while there will be no featured cocktail list, liquor will be available.

Since March of 2012, as the proprietors of Hugo's and Eventide Oyster Co., AMA LLC. has garnered acclaim within the local and national food community while also developing a strong, respectful and productive relationship with the City of Portland. We have worked diligently to provide professional and well-respected establishments and look forward to maintaining our standards at The Honey Paw.

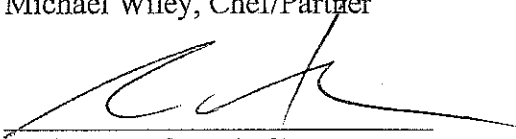
Thank you for your time and consideration in this matter and we look forward to working with The City of Portland in the future.



Arlin Smith, General Manager/Partner



Michael Wiley, Chef/Partner



Andrew Taylor, Chef/Partner

Management Team:

Arlin Smith (B.A. in Culinary Arts - *Culinary Institute of America*, 2005)

As partner of AMA LLC., and general manager of Hugo's and Eventide Oyster Co., Arlin Smith is intimately acquainted with all aspects of running the service end of our restaurant group successfully. A familiar face to the Portland food community, Arlin's continued commitment to excellence ensures a professionally run front of house operation and bar program.

Andrew Taylor (B.A. in Economics - *Bates College*, 2003)

Mike Wiley (B.A. English Literature & Religious Studies - *Colby College*, 2003; M.A. Communication and Rhetoric, *University of Colorado at Boulder*, 2009)

As partners of AMA LLC, and Executive Chefs of Hugo's and Eventide Oyster Co. Andrew and Mike have overseen the seamless transition of ownership and reinventing of Hugo's as well as the building, implementing and overwhelming success of the Eventide Oyster Co. menu. Supporters of local agriculture, teachers of young chefs and all around swell guys, Andrew and Mike have become respected pillars of the burgeoning food movement in Portland.



Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557

Application for Food Service Establishment with Alcoholic Beverages License

Business Information.	
Business Name (d/b/a):	Hugo's, Eventide Oyster Co., The Honey Paw Phone: 207-774-8538
Location Address:	88 Middle St. Portland, ME Zip: 04101
If new, what was formerly at this location:	
Mailing Address:	88 Middle St. Portland, ME Zip: 04101
Contact Person:	Arlin Smith Phone: 845-242-4017
Contact Person Email:	arlin.smith@gmail.com
Manager of Establishment:	Same. Phone: Same.
Owner of Premises (Landlord):	80-90 Corp.
Address of Premises Owner:	100 Silver St. Portland ME Zip: 04101

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
AMA, LLC		88 Middle St. Portland ME Zip: 04101	
Contact Person:	Arlin Smith	Phone:	845-242-4017
Principal Officers	Title	Date of Birth	Residence Address
Arlin Smith	GM	10/31/82	90 Brackett St. Portland ME 04102
Andrew Taylor	Chef	10/10/80	486 Greely Rd extension, Cumberland ME 04021
Mike Wiley	Chef	7/30/81	15 Middle St. apt. 506, Portland ME 04101

About Your Establishment

Class of Liquor License:	Class XI Restaurant/Lounge	
Type of food served:	New American, Oyster/Raw Bar, Pasta	
Please circle all that will be served:	Beer ☒ Wine ☒ Liquor ☒	
Projected percentage of sales:	Generated from Food: 60%	Generated from Alcohol: 40%
Hours & days of operation:	11:00 am - 1:00 am 7 days a week	

QUESTIONS	Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?	☒ Y ☐ N
If No, please explain:	
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☒ Y ☐ N
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☒ Y ☐ N
Will you permit dancing on the premises?	☒ Y ☐ N
Will you permit dancing after 1:00 a.m.?	☒ Y ☐ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☒ Y ☐ N
If yes, will the outside dining be on <u>PUBLIC</u> or PRIVATE property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☒ Y ☐ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date?	4/15/15
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☒ Y ☐ N
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?	☒ Y ☐ N
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	☒ Y ☐ N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☒ Y ☐ N
If Yes, please explain: Andrew Taylor Reckless Driving - No Contest - resulted in suspended license. Happened in Seattle, Washington in 2006	

I, Arlin Smith, do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

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 Arlin Smith Title Owner/GM Date 3/12/15

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-OPTINONAL 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>AMA, LLC.</u>		2. Business Name (D/B/A) <u>Hugo's, Eventide Oyster Co., The Honey Paw</u>	
DOB: _____		DOB: _____	
DOB: _____		Location (Street Address) <u>88 Middle St.</u>	
Address <u>88 Middle St.</u>		City/Town <u>Portland</u>	State <u>ME</u> Zip Code <u>04101</u>
DOB: _____		Mailing Address <u>Same.</u>	
City/Town <u>Portland</u>	State <u>ME</u> Zip Code <u>04101</u>	City/Town _____	State _____ Zip Code _____
Telephone Number <u>207-774-8538</u>	Fax Number _____	Business Telephone Number <u>207-774-8538</u>	Fax Number _____
Federal I.D. # <u>45-4352290</u>	Seller Certificate # <u>5083</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: Artin Smith
8. If business is NEW or under new ownership, indicate starting date: 4/15/15
Requested inspection date: asap. Business hours: 9am - 1am
9. Business records are located at: 88 Middle St.
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
Arlin Thomas Smith	10/31/82	Buffalo, NY
Andrew Herter Taylor	10/10/80	Boston, Mass
Michael Corbett Wiley	7/30/81	Portland, ME
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Arlin Smith - Portland, ME	Andrew Taylor - Cumberland, ME	
Mike Wiley - 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: Andrew Taylor

Date of Conviction: 9/2006

Offense: Reckless Driving - No Contest

Location: Seattle, Washington

Disposition: Suspended

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: _____

80-90 Corp. 100 Silver St, Portland ME 04101

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

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?

YES ☒ NO ☐ Applied for: Municipal Eating Place

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 yds 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: Silent investors (Family/Friends) 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

Town/City, State

on

3/13/15

, 20 15

Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Arlin Smith

Signature of Applicant or Corporate Officer(s)



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

AMA, LLC.

2. Other business name for your entity (DBA), if any:

Hugo's, Eventide Oyster Co., The Honey Paw

3. Date of filing with the Secretary of State: 1/12/12

4. State in which you are formed: Maine

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
Arlin Smith	90 Brackett St. Portland, ME 04101	10/31/82	31 %
Andrew Taylor	486 Greely Rd. Extension, Cumberland ME 04021	10/10/80	31 %
Mike Wiley	15 Middle St. unit 506 Portland ME 04101	7/30/81	31 %

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes



No



10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: Andrew Taylor

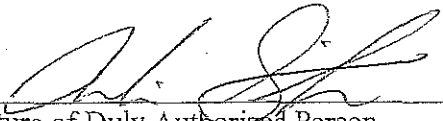
Date of Conviction: 9/2006

Offense: Reckless Driving

Location of Conviction: Seattle, Washington

Disposition: Suspended

Signature:



Signature of Duly Authorized Person

3/12/15
Date

Arlin Smith

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To:

Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov



Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

March 24, 2015

Hugo's, Eventide Oyster Co., The Honey Paw
Attn: Arlin Smith
88 Middle St.
Portland, ME 04101

Re: AMA, LLC d/b/a Hugo's, Eventide Oyster Co., The Honey Paw. Application for a Class XI Restaurant/Lounge License with Outdoor Dining on Public Property at 88 Middle St.

Dear Mr. Smith,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, April 6th at 7 p.m.** for the review of the application for a Class XI Restaurant/Lounge License with Outdoor Dining on Public Property for AMA, LLC d/b/a Hugo's, Eventide Oyster Co., The Honey Paw at 88 Middle St.

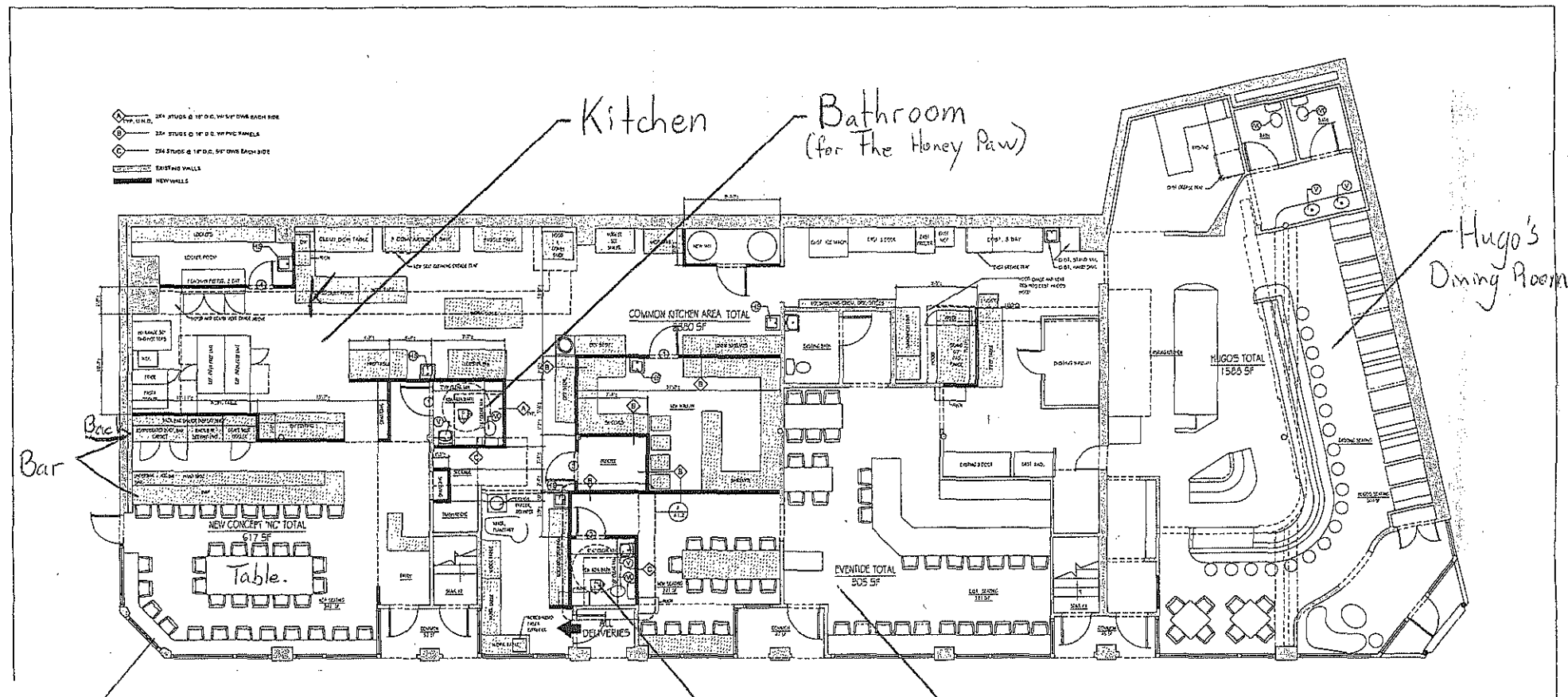
The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

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 our office directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov





Outdoor Dining Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

☒ New Application for Outside Dining ☐ Renewal Application for Outside Dining City Clerk signature for liquor license approval: _____ Pending Council Date: _____		
Location Name & Address: <u>The Honey Paw</u> <u>78 Middle St. Portland, ME 04101</u>		Chart Block Lot
Owner & Phone #: <u>Arlin Smith 845-242-4017</u>		Total Square Footage of Proposed Seating Area: ¹ <u>400 sq ft.</u>
Applicant *must* be owner or lessee Name: <u>Arlin Smith</u> Address: <u>88 Middle St.</u> City, State & Zip: <u>Portland, ME 04101</u> E-Mail: <u>arlin.smith@gmail.com</u>		Annual Fee: \$80 Total Sq. Ft.: <u>400</u> Sq. Ft. Fee: (sq ft x \$2) \$ <u>800</u> (Due when issued) Total Fees: \$ <u>880</u> (Permit not issued until <u>all</u> fees are paid)
Current use: <u>Restaurant</u>		
Business name: <u>The Honey Paw</u>		
Seating area dimensions: <u>32'x5' and 10'x4' and 10'x5'</u>		
How many chairs? <u>25</u> How many tables? <u>5</u> ☒ Yes Alcohol is served. ☐ No Alcohol being served.		
Who should we contact for the pre-inspection: <u>Arlin Smith</u> Mailing address: <u>88 Middle St. Portland ME 04101</u> Phone: <u>845-242-4017</u>		

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant: [Signature] Date: 3/12/15

¹ In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.

This is not a permit; you may not commence ANY work until the permit is issued.

- ☒ The permit holder is responsible for keeping the outdoor seating area clean. The sidewalk area where the tables and chairs are located must be kept neat and free from litter and debris.
- ☒ No food shall be prepared outside.
- ☒ If alcohol is to be served, the permit holder must notify the City's Business Licensing Office in room 203 of City Hall or by telephone at 874-8557 and obtain approval for the service of alcohol outdoors. Additionally, State law requires that any outdoor area serving alcohol be segregated from the rest of the public.
- ☒ All tables and chairs shall be removed prior to a predicted snowfall and while any snow or ice exists within the designated outdoor seating area or within four feet from the boundaries thereof. The City will not be responsible for damage to any tables, chairs or other property that is not properly removed when the City is engaged in sidewalk maintenance activities.
- ☒ The permit holder shall comply with all applicable rules and regulations implemented by the city regarding outdoor dining.

Failure to comply with any of the above conditions will result in revocation or non-renewal of the permit.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

Signed and acknowledged:



Date: 3/12/15

Printed name

Arlin Smith

Establishment

The Honey Paw

Location

78 Middle St. Portland, ME 04101



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)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C433339

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-03-13) :

Inquiries Name(s)

ARLIN SMITH (1982-10-31)

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)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C433342

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-03-13) :

Inquiries Name(s) MICHAEL WILEY (1981-07-30)

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)

JANICE GARDNER
389 CONGRESS STREET
ROOM 203
PORTLAND, ME 04101

Transaction Response #: MIQ99C433340

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2015-03-13) :

Inquiries Name(s)

ANDREW TAYLOR (1980-10-10)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Business Licensing - HUGO'S AND EVENTIDE Business License Approval

From: Katie Johnston
To: Business Licensing
Date: 3/16/2015 4:16 PM
Subject: HUGO'S AND EVENTIDE Business License Approval

HUGO'S AND EVENTIDE is Denied for their Business License Inspection by the Treasury Dept.

Date: 3/16/2015

Zone:

Comments: Pepperclub has a bill of \$1174.77 for personal property for 2015. Account #10259

Business Licensing - Re: HUGO'S AND EVENTIDE Business License Approval

From: Katie Johnston
To: Business Licensing
Date: 3/23/2015 9:22 AM
Subject: Re: HUGO'S AND EVENTIDE Business License Approval

Yes they are all set.

Katie

>>> Business Licensing 3/23/2015 9:07 AM >>>

Hi,

Have these been paid? The owner of Hugo's said he took care of it.

Thanks,

Janice

>>> Katie Johnston 3/16/2015 4:16 PM >>>

HUGO'S AND EVENTIDE is Denied for their Business License Inspection by the Treasury Dept.

Date: 3/16/2015

Zone:

Comments: Pepperclub has a bill of \$1174.77 for personal property for 2015. Account #10259

(Business Licensing - Fwd: Re: Hugo's, Eventide Oyster Co, Honey Paw - 88 Middle St.

From: Gary Rogers
To: Business Licensing
Date: 3/25/2015 2:16 PM
Subject: Fwd: Re: Hugo's, Eventide Oyster Co, Honey Paw - 88 Middle St.
CC: Gary Hutcheson

I'm back in business! Police approve the expansion.

Commander Gary Rogers
Portland Police Department
109 Middle Street
Portland, Maine 04101
(207) 874-8546

>>> Business Licensing 3/25/2015 11:19 AM >>>

Hi Gary,

I understand you were having some email trouble this morning. Here is the string of emails about Hugo's, etc.

Thanks,
Janice

>>> Business Licensing 3/20/2015 10:29 AM >>>

Hello,

With Lt. Hutcheson out for the time being, would you be able to provide feedback/approval on Hugo's application to expand their premise? I need to have PD feedback for Council ready by next Wednesday.

Thank you,
Janice Gardner

Business License Administrator

bl@portlandmaine.gov

207.874.8557

>>> Business Licensing 3/13/2015 3:59 PM >>>

Hello,

For your approval:

AMA, LLC d/b/a Hugo's, Eventide Oyster Co., The Honey Paw has submitted an application for a Class XI Restaurant/Lounge with outdoor dining on public property at 88 Middle St. They are expanding their indoor and outdoor dining premises to include The Honey Paw. They are all serviced by the same kitchen and are all connected, so they are covered under one license. They wish to go before Council on April 6th.

Please find their application, outdoor dining application, and menu attached. Please put feedback into UI.

Thanks,

*Order 199-14/15
Tab 20 4-6-15*

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

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

**The Inn at Diamond Cove LLC d/b/a The Inn at Diamond Cove. Application for a Class IA
40+ Rooms License with Entertainment without Dance and Outdoor Dining on Private
Property at 22 McKinley Court.**

MAR 09 2015

3:15pm

Inn at Diamond Cove

GREAT DIAMOND ISLAND • PORTLAND, MAINE

March 4, 2015

LETTER OF INTENT

To support a Liquor License Application

Inn at Diamond Cove, LLC 22
McKinley Court
Great Diamond Island
Maine, 04109

For the Mayor and Members of the City Council's consideration:

The Inn at Diamond Cove is an upscale 44 room Inn set to open in June 2015 on Great Diamond Island. For guests' enjoyment, the Inn will offer an arrival lobby lounge with bar and table seating. The lobby will have adjacent patios on two sides with exterior seating as well. Across the driveway from the front doors to the lobby is an in-ground pool with chaise seating and a Poolside Cabana.

Food service will be available from 7am to 9pm in these areas. Beverage service will be offered between noon and 9pm. Plans assume 30 seats total inside the lobby and another 50 seats distributed between patio and pool deck. Beverage service in the lobby and on the patios will originate from the lobby bar. Poolside beverage service will originate from the Poolside Cabana. Food preparation for all service areas will originate from the Inn's onsite kitchen.

The Inn will operate continuously during the summer season and potentially for special events in the Spring and Fall.

Sincerely,



David Hart
Managing Member

cc: David Bateman

MAR 09 2015

3:15pm



Office of the City Clerk • 389 Congress St. • Portland, ME 04101 • (207) 874-8557

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	The Inn at Diamond Cove Phone: 207 766-2024
Location Address:	22 McKinley Court, Great Diamond Island 04109 Zip:
If new, what was formerly at this location:	Fort McKinley Barracks
Mailing Address:	617 Dings St, Buffalo, NY 14206 Zip:
Contact Person:	Aaron Black Phone: 207 523-2010
Contact Person Email:	ablack@harthotels.com
Manager of Establishment:	Aaron Black Phone: 207 523-2010
Owner of Premises (Landlord):	The Inn at Diamond Cove, LLC
Address of Premises Owner:	617 Dings St, Buffalo, NY 14206 Zip:

Sole Proprietor/Partnership Information (If Corporation, leave blank)

Name of Owner(s)	Date of Birth	Residence Address

Corporate/LLC/Non-Profit Organization Applicants (If Sole Proprietor or Partnership, leave blank)

Corporate Name		Corporate Mailing Address	
The Inn at Diamond Cove, LLC		617 Dings St, Buffalo, NY 14206 Zip:	
Contact Person:	David Hart - Managing Partner	Phone:	716 893-6551
Principal Officers	Title	Date of Birth	Residence Address
see attached			

About Your Establishment

Class of Liquor License:	Class 1A Inn	
Type of food served:	All day dining	
Please circle all that will be served:	Beer ☒ Wine ☒ Liquor ☒	
Projected percentage of sales:	Generated from Food: 60	Generated from Alcohol: 40
Hours & days of operation:	7 AM - 9 pm 7 days	

QUESTIONS		Y/N
Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open?		Y ☒ N
If No, please explain: some appetizers considered finger foods		
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?		Y ☒ N
If yes, give the distance:		
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)		Y ☒ N
Will you permit dancing on the premises?		Y ☒ N
Will you permit dancing after 1:00 a.m.?		Y ☒ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)		Y ☒ N
If yes, will the outside dining be on PUBLIC or <u>PRIVATE</u> property (circle one).		
Will you have any amusement devices (pinball, video games, juke box)?		Y ☒ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____		
What is your targeted opening date? June 1, 2015		
Does the Issuance of this license directly or indirectly benefit any City employee(s)?		Y ☒ N
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?		Y ☒ N
If Yes, please list business name(s) and location(s):		
Portland Harbor Hotel, 468 Fore St.		
Is any principal officer under the age of 21?		Y ☒ N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?		Y ☒ N
If Yes, please explain:		

I, DAVID HART ☒ do hereby swear and affirm that every employee in my establishment that serves alcohol to the public has attended server training, or will attend server training within 90 days of their hire. I also understand that at any time the City license administrator can, upon request, require me to produce Server Training certificates for each employee that serves alcohol to the public in my establishment. Failure to meet the training requirement imposed by section 15-41 may result in the denial of a liquor license pursuant to 28-A M.R.S.A. § 653 (2) (G).

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 Managing Partner Date 3/5/15

For more information about Liquor Licenses, see Portland City Code Chapter 15 at www.portlandmaine.gov and M.R.S.A. Title 28-A at www.maine.gov

NAME/MAIDEN	D.O.B	PLACE OF BIRTH	HOME ADDRESS	PERCENTAGE OF OWNERSHIP
Paul Tarbox	5/12/1931	Biddeford, Maine	Main Street Freeport, ME 04032	22%
David Bateman	4/28/1951	Ft. Benning, Georgia	1 Brannen Lane Eliot, ME 03903	5%
David Hart	2/29/1960	Buffalo, New York	39 Edgewater Drive Orchard Park, NY 14127	28.50%
Joanne Hart	7/4/1952	Buffalo, New York	69 North Lane Orchard Park, NY 14127	10.50%
Linda Costello (Hart)	4/22/1954	Buffalo, New York	185 Curly Drive Orchard Park 14127 (3/2001 - Present) 63 South Lane Orchard Park, NY 14127 (3/2001)	10.50%
Cathleen Hart-Frantz (Hart)	8/13/1963	Buffalo, New York	11 Edgewater Drive Orchard Park, NY 14127	10.50%
David Shamoian	11/24/1952	Worcester, MA	2 Windy Lane Wayland, MA 01778	13%
PORTLAND HARBOR HOTEL GENERAL MANAGER				
Aaron Black	6/23/1965	Montreal, Canada	180 Falmouth Street #205 Portland, Maine 04102	

MAR 09 2015

3:15pm

\$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): The Inn at Diamond Cove

Location Address: 22 McKinley Court, Great Diamond Island ZIP 04109 Phone 766-2024

Will music be electric or acoustical or both? Both

Will amplification used? Yes X No _____

If yes, where and at what level? poolside + not to exceed 55 decibels

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

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

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

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 250 Feet

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

Inn is for quiet enjoyment and may offer live background music

If new applicant, what is your targeted opening date? : June 2015

Does the issuance of this license directly or indirectly benefit any City employee? Yes _____ No X
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 [Signature] Title Managing Partner Date 3/5/15

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>The Inn at Diamond Cove, LLC</u> DOB: _____			2. Business Name (D/B/A) <u>The Inn at Diamond Cove</u>		
DOB: _____					
Address <u>617 Dingers St.</u>			Location (Street Address) <u>22 McKinley Court</u>		
City/Town <u>Buffalo</u> State <u>NY</u> Zip Code <u>14206</u>			City/Town <u>Portland</u> State <u>ME</u> Zip Code <u>04109</u>		
			Mailing Address <u>617 Dingers St.</u>		
City/Town <u>Buffalo</u> State <u>NY</u> Zip Code <u>14206</u>			City/Town <u>Buffalo</u> State <u>NY</u> Zip Code <u>14206</u>		
Telephone Number <u>716-893-6551</u> Fax Number <u>716-893-6517</u>			Business Telephone Number <u>207-776-2024</u> Fax Number <u>207-776-2029</u>		
Federal I.D. # <u>26-0865994</u>			Seller Certificate #		

3. If premises are a hotel, indicate number of rooms available for transient guests: 44

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

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: Aaron Black

8. If business is NEW or under new ownership, indicate starting date: June 1, 2015

Requested inspection date: June 1, 2015 Business hours: 7am - 9pm

9. Business records are located at: 22 McKinley Court

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
see attached		

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

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) 44 room Inn
with lobby lounge, patio, and pool deck

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

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? N/A Which of the above is nearest? N/A

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: Kahledin Trust Mortgage

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: Buffalo, NY
Town/City, State

on 3/5

, 20 15
Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

Supplemental Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

The Inn at Diamond Cove, LLC

2. Other business name for your entity (DBA), if any:

The Inn at Diamond Cove

3. Date of filing with the Secretary of State: 7/1/2008

4. State in which you are formed: Maine

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
See Attached			

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☐ No ☒

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: _____

Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

Date

3/5/15

David Hart / managing Partner

Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To: Bureau of Alcoholic Beverages and Lottery Operations
Division of Liquor Licensing and Enforcement
164 State House Station
Augusta, Me 04333-0101
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3424
Email Inquiries: MaineLiquor@Maine.gov

Inn at Diamond Cove

GREAT DIAMOND ISLAND • PORTLAND, MAINE

Starbuck's Specialty Coffee's

Fresh Brewed Coffee

Choose from: Regular House Blend, Pike's Place Roast, Veranda Blonde Roast or Decaf House Blend

TALL - \$2.00 GRANDE- \$3.00 VENTI - \$4.00

Tazo Chai Tea

GRANDE - \$2.00

Tazo Chai Tea Latte

TALL - \$3.00 GRANDE- \$3.40

Flavor Shot- \$.60

Specialty Coffee

Café Americano

rich, full-bodied espresso combined with hot water for the European alternative to American - style brewed coffee

TALL- \$2.10 GRANDE- \$2.40

Espresso

smooth & versatile espresso roast is the soul of Starbucks with a rich flavor, lingering aroma, & caramel like sweetness

SINGLE - \$2.00 DOUBLE - \$3.00

Cappuccino

rich, full-bodied Starbucks espresso in a small amount of steamed milk, with a deep layer of foam, the classic & complex cappuccino offers a stronger espresso flavor & luxurious texture

TALL- \$3.10 GRANDE- \$4.00

Café Latte'

rich, full-bodied Starbucks espresso in a steamed milk lightly topped with foam

TALL- \$3.10 GRANDE- \$4.00

Café Mocha

rich, full-bodied espresso combined with Starbucks bittersweet mocha syrup & steamed milk

TALL- \$3.40 GRANDE- \$4.10

Caramel Macchiato

a Starbucks beverage, vanilla & steamed milk are permeated with intense espresso & topped with velvety foam & our own buttery caramel

TALL- \$3.40 GRANDE- \$4.10

White Chocolate Mocha

a delicious variation of the classic mocha, rich, full-bodied Starbucks espresso is complemented with our, creamy white chocolate syrup & topped with whipped cream

TALL- \$3.40 GRANDE- \$4.10

Hot Chocolate

a classic hot chocolate, sweet & creamy, made with steamed milk, mocha syrup & topped with whipped cream & chocolate

GRANDE - \$3.00

White Hot Chocolate

a traditional, hot chocolate beverage with a twist of white chocolate & vanilla syrups, topped with cream

GRANDE - \$4.00

Iced Specialties

Iced Americano

a crisp, refreshing & Starbucks coffee, hand - shaken with ice for a uniform mix

TALL- \$2.10 GRANDE- \$2.40

Café Iced Latte'

rich, full-bodied Starbucks espresso combined with cold milk & poured over ice

TALL- \$3.10 GRANDE- \$3.80

Café Iced Mocha

rich, full-bodied Starbucks espresso combined with our bittersweet mocha syrup, milk & ice

TALL- \$3.40 GRANDE- \$4.10

Iced White Chocolate Mocha

a delicious variation of the classic iced mocha, rich, full bodied Starbucks espresso & milk, combined with our own creamy white chocolate mocha syrup, chilled on ice & topped with whipped cream

TALL- \$3.40 GRANDE- \$4.10

Iced Carmel Macchiato

a creamy mix of vanilla & milk poured over ice, marked with espresso & topped with our lush caramel sauce

REGULAR- \$3.40 LARGE- \$4.10

Mocha Frappe'

a delightfully sweet & creamy combination of coffee, milk & chocolate, blended with ice, topped with whipped cream

TALL- \$4.25 GRANDE- \$4.65

Iced Tazo Chai Latte

the traditional Indian beverage of rare tazo black teas exotic spices & comforting vanilla & milk chilled on ice

TALL- \$3.00 GRANDE- \$3.40

Fresh Brewed Tazo Iced Tea

GRANDE- \$2.00

Ask about our SEASONAL Starbucks selection!

Inn at Diamond Cove

GREAT DIAMOND ISLAND • PORTLAND, MAINE

Mornings

Breakfast Specialties

Steak & Eggs \$ 15
A seasoned aged sirloin steak with your choice of two farm fresh eggs and breakfast potatoes

Corned Beef Hash \$ 9
Fresh corned beef hash with two farm fresh eggs and toast

The Island Breakfast \$ 9
Two farm fresh eggs, choice of meat, choice of side and toast

Baked Butter Croissant Sandwich \$8
An omelet topped with Applewood smoked bacon and cheddar cheese on our signature butter croissant

Whole Wheat Florentine Sandwich \$8
A hearty, whole wheat roll filled with fresh baby spinach folded into an egg white omelet topped with provolone cheese

Omelets A la Carte

Create Your Three Egg Omelet \$10
Served with your choice of whole eggs or egg white served with your choice of breakfast potatoes or fresh cut fruit and toast. Filling Selections: cheddar, mozzarella, bacon, sausage, ham, mushrooms, onions, tomatoes, bell pepper, spinach, or broccoli.

From the Griddle

Buttermilk Waffles/Belgian Waffle/Pancakes \$8
Served with seasonal berries, butter and maple syrup

Cinnamon Swirl French Toast \$8
Filled with cream cheese & fresh strawberries, served with maple syrup

"The Department of Health requires us to inform that consuming RAW or UNDERCOOKED meat, poultry, shellfish & eggs may increase your risk of foodborne illness, especially individuals with certain medical conditions."

Bakeries, Cereal, Fruit & Yogurt

Basket of Fresh Bakeries \$ 8
A fresh baked butter croissant and two muffins with butter and jam

Steel Cut Oatmeal \$ 6
Served with fresh cream, cinnamon, syrup, golden raisins and raisins

Berry Granola Yogurt Parfait \$ 6
Layers of fresh fruit, low fat vanilla yogurt and granola

Cold Cereal Selection \$8
An omelet topped with Applewood smoked bacon and cheddar cheese on our signature butter croissant

Whole Wheat Florentine Sandwich \$4
Kellogg's Special K, Raisin Bran, Frosted Flakes, Rice Krispies, Froot Loops, All Bran and Granola

Ala Carte

Seasonal Berry Selection \$6

Low Fat Fruit Yogurt \$2

Breakfast Potatoes \$3

A Farm Fresh Egg \$3

Choice of Ham, Bacon, Sausage Patty, Turkey Bacon

Fresh Fruit Trio \$5

Layers of fresh cut melon & red seedless grapes

Seasonal Whole Fresh Fruit \$1

Your choice Banana, Apple, Orange

Toast, Bagel, English Muffin \$2

Beverages

Selection of Assorted Tazo Tea \$2
Herbal or Black

Freshly Brewed Starbucks Coffee

Tall \$2 Grande \$3 Venti \$4

Small Pot \$6
(regular or decaf)

Large Pot \$9
(regular or decaf)

Cappuccino \$4

Espresso - Single \$2

Latte \$4

Hot Chocolate \$3

Bottled Fruit Juice \$2

Orange, Apple, Cranberry, Grapefruit, Tomato Milk \$3

2%, Skim, Chocolate

Spring Water \$3

Assorted Soft Drinks \$2

Sport Drink \$3

Inn at Diamond Cove

GREAT DIAMOND ISLAND • PORTLAND, MAINE

Afternoon & Evening

Soup, Salads, Starters & Snacks

Soup of the day \$ 5

House Salad \$ 6

Mixed greens, diced tomatoes, cucumber & red onion topped with home style croutons

Caesar Salad \$ 7

A classic! Crisp romaine lettuce, shredded parmesan, home style croutons, tossed in a creamy Caesar dressing. Make it an ENTREE by topping it with your choice of Chicken, Shrimp, Salmon or Sirloin Steak; add \$7

Caprese Salad \$12

A traditional caprese made of fresh mozzarella, tomatoes & basil that are drizzled with olive oil & balsamic vinegar

Steak Spinach Salad \$15

Crisp baby spinach tossed with gorgonzola cheese, red seedless grapes, diced walnuts & topped with sirloin steak cooked to your liking

Spring Chicken Salad \$13

Mixed greens and baby spinach with mandarin oranges, strawberries, diced apple, diced walnuts and gorgonzola, finished with a mandarin orange dressing

All salads served with a warm ciabetta roll & butter.

Beer Battered Shrimp \$10

A basket of Red Hook beer battered shrimp served with cocktail sauce & jalapeno ranch

Stuffed Banana Peppers \$11

3 Hungarian peppers stuffed with a cheese blend, served with warm marinara & ciabetta bread

Chicken Tenders \$ 9

A basket of juicy chicken tenders served with ranch & BBQ sauce

Burger Sliders \$10

3 mini burgers for yourself or to share

Pulled Pork Sliders \$10

3 mini sandwiches of pulled pork, slow cooked in a sweet BBQ sauce & topped with coleslaw

"The Department of Health requires us to inform that consuming RAW or UNDERCOOKED meat, poultry, shellfish & eggs may increase your risk of foodborne illness, especially individuals with certain medical conditions."

The Local Dish

Great Diamond Seafood Chowder \$10
New England style with assorted fresh seafood

Maine Lobster Roll \$14
Freshly picked Maine lobster meat tossed in a house made lemon aioli with shredded baby iceberg lettuce on a New England Style Roll

Maine Crab Cakes \$12
Made with fresh Maine crab meat served with celery root, micro greens and a spicy remoulade sauce

Jumbo Shrimp Cocktail \$10
Poached tiger shrimp with house made cocktail sauce

Burgers

choice of white or wheat Kaiser Roll, served with baked chips & a pickle spear; substitute fries for \$2

Casco Bay Burger \$11
An 8oz., Angus beef patty cooked to your liking, topped with cheddar cheese & smoked apple wood bacon

Turkey Burger \$10
Taste the mesquite in every bite! Topped with pepperjack cheese, lettuce & tomato

Veggie Burger \$9
A completely Vegan & Gluten Free sandwich!
A Morningstar veggie burger & locally baked gluten free Italian style roll; served with lettuce & tomato and baked gluten free Lays chips

Wraps

all wraps are served in a herb garlic tortilla with baked chips or small salad

Chicken Caesar \$9
A crisp classic Caesar, minus the croutons and all wrapped up!

Cran-Turkey \$10
Sliced turkey breast, chopped romaine, diced tomatoes, dried cranberries & walnuts with a house made cranberry mayo

Vegetable Wrap \$8
Assorted vegetable, lightly sautéed & wrapped up with chopped romaine, diced tomatoes & cheddar cheese

Panini's

choice of sourdough or multi-grain bread, served with baked chips & a pickle spear; substitute fries for \$2

Monte Cristo Panini \$11
Ham, American cheese, turkey and Swiss pressed between cinnamon swirl bread, dusted with powdered sugar with a side of raspberry preserves

Steak & Mushroom Panini \$12
Sirloin steak, portabella mushroom, red peppers & gorgonzola cheese

Chicken & Spinach Panini \$11
Chicken breast, baby spinach, provolone cheese with pesto mayo

M. Y. O. Pizza \$14

Make your own pizza! Pick 3 toppings & we do the rest! Toppings to choose from: pepperoni, sausage, ham, onions, peppers, broccoli, spinach, mushrooms, pineapple, buffalo chicken, steak, gorgonzola. Additional toppings \$1.00
All pizzas include your choice of cheddar or mozzarella cheese.

Entrees

*all entrees are served with vegetable & potato of the day, warm ciabatta roll & butter
add a house or Caesar Salad \$3*

Roasted Chicken \$17
A Guest Favorite! Herb encrusted 1/2 chicken that is baked so it comes out tender & juicy

Pick Your Steak \$19
14 oz., NY Strip \$29 or 8 oz., Sirloin
Served with béarnaise sauce with portabella mushrooms & sprinkled with fried onions.
add a skewer of shrimp \$6

Lemon Pepper Salmon \$19
Salmon filet baked with lemon pepper spice & drizzle of fresh squeezed lemon on a bed of wild rice

BBQ Ribs \$22
1/2 rack of ribs smothered in BBQ sauce, served with fries & coleslaw

Shrimp Pasta \$17
Shrimp sautéed in white wine, garlic, butter & diced vegetables, served over spaghetti

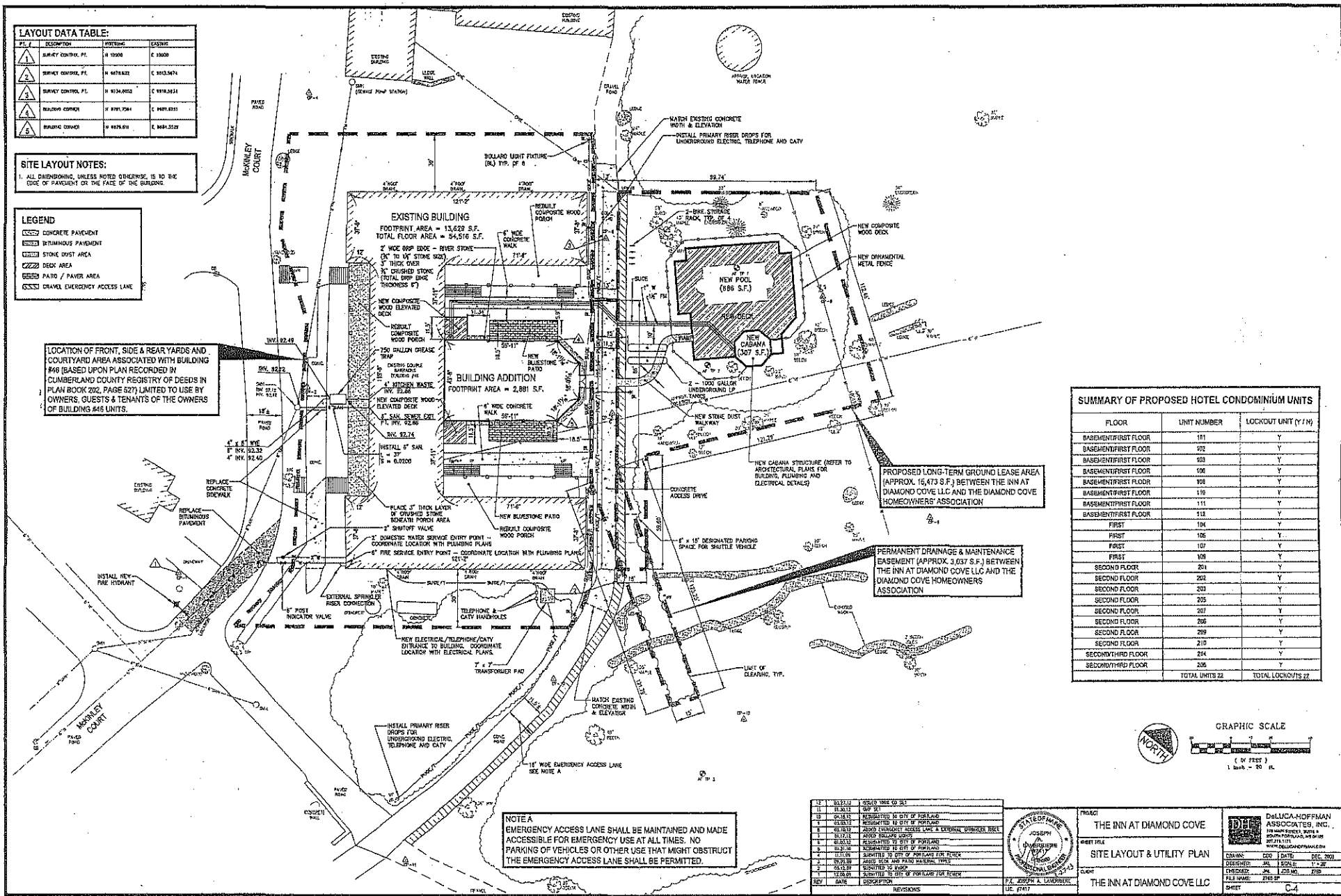
Cheese Tortellini \$13
Tri-color cheese tortellini served in a rich vodka sauce

LAYOUT DATA TABLE:			
PT. #	DESCRIPTION	WESTING	EASTING
1	SURVEY CONTROL PT.	N 10000	E 10000
2	SURVEY CONTROL PT.	N 10000	E 10000
3	SURVEY CONTROL PT.	N 10000	E 10000
4	SURVEY CONTROL PT.	N 10000	E 10000
5	SURVEY CONTROL PT.	N 10000	E 10000
6	SURVEY CONTROL PT.	N 10000	E 10000
7	SURVEY CONTROL PT.	N 10000	E 10000
8	SURVEY CONTROL PT.	N 10000	E 10000
9	SURVEY CONTROL PT.	N 10000	E 10000
10	SURVEY CONTROL PT.	N 10000	E 10000

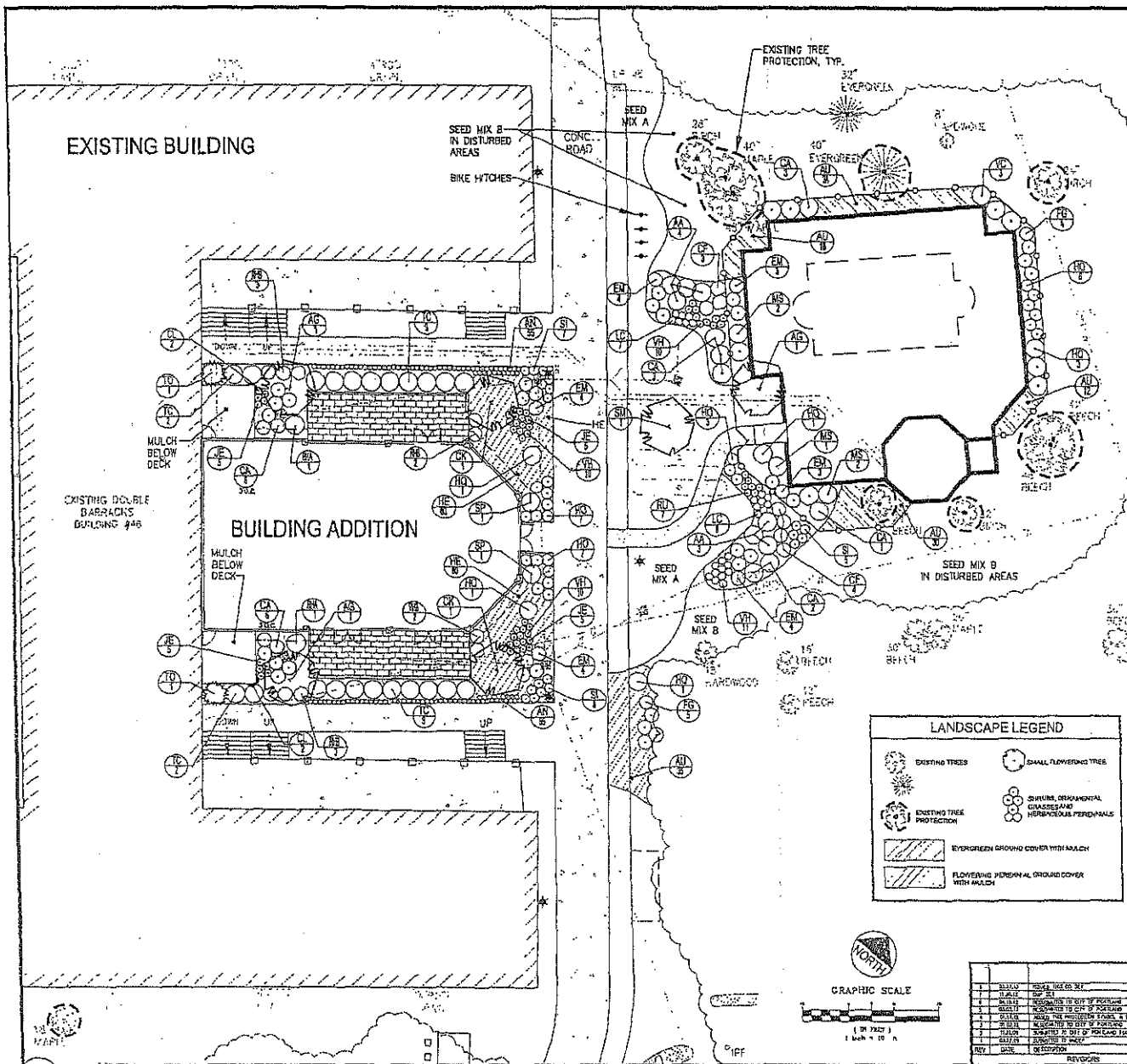
SITE LAYOUT NOTES:
1. ALL DIMENSIONS, UNLESS NOTED OTHERWISE, IS TO THE EDGE OF PAVEMENT OR THE FACE OF THE BUILDING.

LEGEND
 [Symbol] CONCRETE PAVEMENT
 [Symbol] BITUMINOUS PAVEMENT
 [Symbol] STONE DUST AREA
 [Symbol] DECK AREA
 [Symbol] PATIO / PAVEMENT AREA
 [Symbol] DRIVEWAY EMERGENCY ACCESS LANE

LOCATION OF FRONT, SIDE & REARYARDS AND COURTYARD AREA ASSOCIATED WITH BUILDING #46 (BASED UPON PLAN RECORDED IN CUMBERLAND COUNTY REGISTRY OF DEEDS IN PLAN BOOK 202, PAGE 627) LIMITED TO USE BY OWNERS, GUESTS & TENANTS OF THE OWNERS OF BUILDING #46 UNITS.



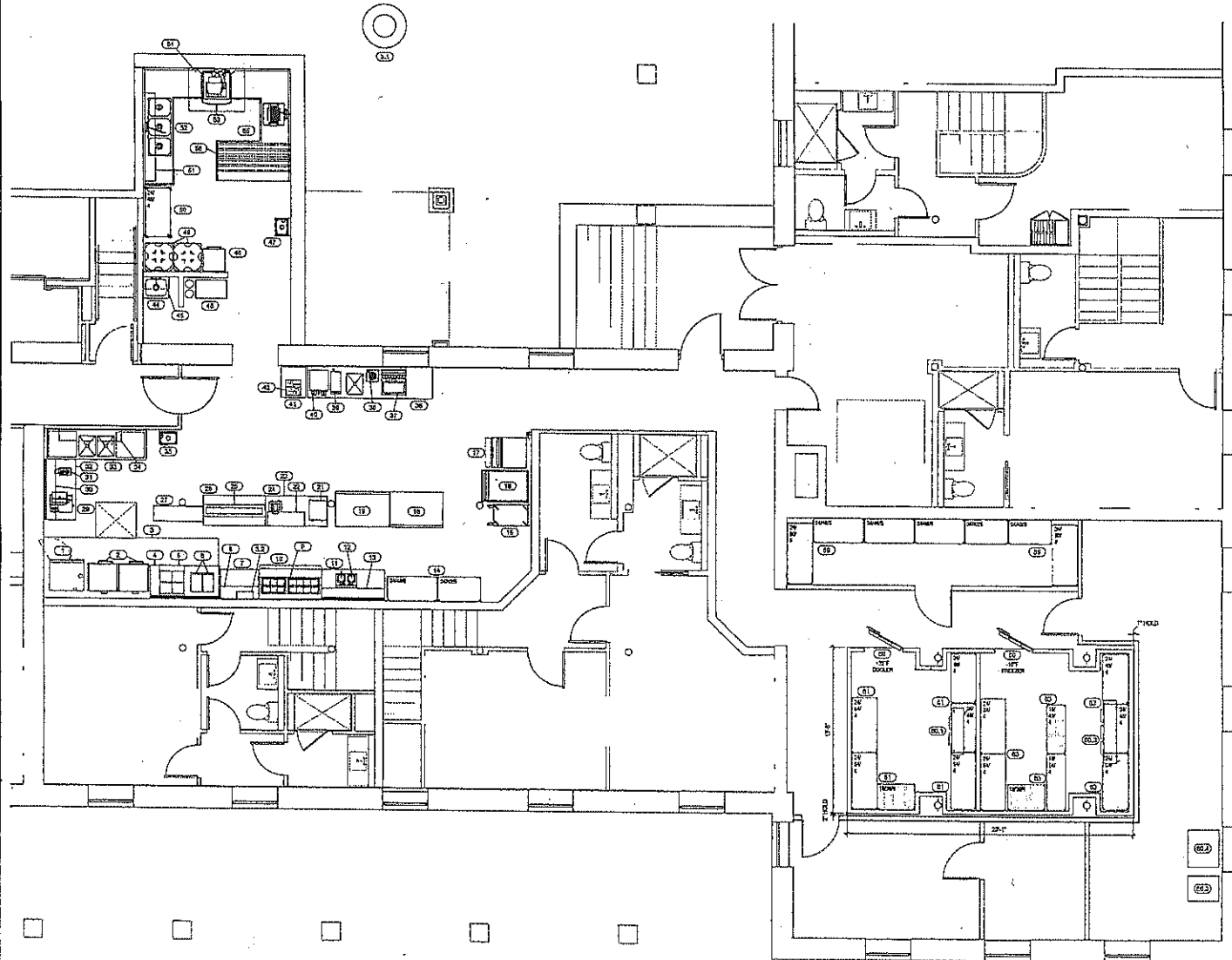
SUMMARY OF PROPOSED HOTEL CONDOMINIUM UNITS		
FLOOR	UNIT NUMBER	LOCKOUT UNIT (Y / N)
BASEMENT/FIRST FLOOR	101	Y
BASEMENT/FIRST FLOOR	102	Y
BASEMENT/FIRST FLOOR	103	Y
BASEMENT/FIRST FLOOR	104	Y
BASEMENT/FIRST FLOOR	105	Y
BASEMENT/FIRST FLOOR	110	Y
BASEMENT/FIRST FLOOR	111	Y
BASEMENT/FIRST FLOOR	112	Y
FIRST	114	Y
FIRST	115	Y
FIRST	107	Y
FIRST	108	Y
SECOND FLOOR	201	Y
SECOND FLOOR	202	Y
SECOND FLOOR	203	Y
SECOND FLOOR	205	Y
SECOND FLOOR	207	Y
SECOND FLOOR	206	Y
SECOND FLOOR	209	Y
SECOND FLOOR	210	Y
SECOND/THIRD FLOOR	214	Y
SECOND/THIRD FLOOR	206	Y
TOTAL UNITS 22		TOTAL LOCKOUTS 22



PLANT LIST					
KEY	QTY	BOTANICAL NAME COMMON NAME	SIZE	ROOT	SPACING
TREES					
AG	3	Amelanchier x grandifolia Autumn Brilliance Serviceberry	1 1/2" 2" cal.	B&B	2-3' spaced, line plant
CK	2	Cornus kousa Kousa Dogwood	5-6" H.	B&B	
SM	1	Maquilinga Maquilinga	5-6" H.	B&B	
SHRUBS & ORNAMENTAL GRASSES					
AA	7	Amelanchier x grandifolia Red Chetaberry	18-24" H.	3 gal.	4' o.c.
CA	21	Carex alba 'Compass'	18-24" H.	3 gal.	4' o.c. or as noted
PS	9	Portulaca grandiflora Dwarf Portulaca Bush	18-24" H.	3 gal.	2' o.c.
HO	7	Hydrangea quercifolia 'Snow Queen'	18-24" H.	3 gal.	4' o.c.
MS	5	Monarda didyma 'Superbissima'	18"	3 gal.	4' o.c.
RHA	2	Rhododendron 'America'	24-30" H.	B&B	large leaf
RYS	10	Rhododendron 'Bole de Neige'	18-24" H.	cont./B&B	4' o.c. large leaf
SP	2	Syringa palmeri 'Miss Kim'	2 1/2' 3" H.	cont./B&B	purple flower
TO	22	Thymus serpyllifolius 'Greenway'	18-24" H.	cont./B&B	4' o.c.
YO	2	Yucca occidentalis 'Silveroye'	5-6" H.		
VC	3	Viburnum coccineum Witcher Viburnum	24-30" H.	cont./B&B	4' o.c.
GROUND COVERS, VINES & HERBACEOUS PLANTS					
AN	110	Anemone (e.g., Pinks, Dianthus, Salvia)	6"	4" pot	12" o.c.
AU	125	Andropogon scoparius Broomcorn	10-12"	1 gal.	2' o.c.
CF	7	Cornus alternifolia Cinnamon Fern	6"	1 gal.	3' o.c.
CL	4	Clematis 'Jackmanii'	3-4' runners	1 gal.	angled
EM	22	Euphorbia maculata 'Galeway'	12-15" H.	1 gal.	3' o.c.
HE	180	Hebe 'Blueberry Pudding'	3-4" H.	1 gal.	2' o.c.
HO	23	Hosta 'Frances'	18"	1 gal.	30" o.c.
JE	20	Juncus effusus Soft Rush	3-4"	2" plug	18" o.c.
LC	15	Lobelia cardinalis Coral Flower	18"	1 gal.	18" o.c. red flower
RU	7	Rubus 'Lutescent'	18"	4" pot	18" o.c.
SI	20	Silene 'Cassia's Brother'	3-4" H.	1 gal.	2' o.c.
VH	41	Veronica hastata Blue Veronica	18"	2" plug	18" o.c.
MISCELLANEOUS					
Mulch		Shredded Bark Mulch	3" depth		
Seed Mix A		Lawn Grass			
Seed Mix B		Shade-tolerant, Low Maintenance Grass			

PROJECT: THE INN AT DIAMOND COVE PART: LANDSCAPE PLAN DATE: 06/27/2018 DRAWN: J. JOSEPH CHECKED: J. JOSEPH SCALE: 1" = 10' SHEET: 1 OF 1 FILE NAME: TRASP DRAW: C-1		DEL. LUCAS HOFFMAN ASSOCIATES, INC. 7711 W. 11TH AVE. SUITE 100 DENVER, CO 80202 TEL: 303.733.1111 WWW.LUCASHOFFMAN.COM
---	--	---

Kitchen



EQUIPMENT SCHEDULE	
ITEM NO	EQUIPMENT CATEGORY
1	OVEN-STEAMER COMBINATION, GAS
2	OVEN, MICROWAVE/CONVECTION, COMBI
3	EXHAUST HOOD
3.1	EXHAUST FAN
3.2	FIRE SUPPRESSION SYSTEM
4	REFRIGERATOR, UNDERCOUNTER
5	INDUCTION HOT PLATES
6	COOKTOP, SANDWICH PRESS
7	WORKTABLE
8	SHELF, WALL MOUNT
9	SHELF, WALL MOUNT
10	REFRIGERATOR, BARRYWICK/SALAD PREP
11	WORKTOP REFRIGERATOR
12	WAFFLE BAKER, ELECTRIC (BY OTHERS)
13	SHELF, WALL MOUNT
14	SHELVING, WIRE
15	COUNT, UTILITY
16	COFFEE, BANQUET SERVICE
17	ICE MAKER, W/SH AND FILTER
18	FREEZER, REACH-IN
19	REFRIGERATOR, REACH-IN
20	SPARE NUMBER
21	OVEN, MICROWAVE
22	OVERSHELF, TABLE MOUNT
23	TABLE, ENCLOSED BASE, OPEN FRONT
24	TOASTER, SLICE TYPE
25	OVERSHELF WITH HEAT LAMP
26	TABLE, ENCLOSED BASE, OPEN FRONT
27	TABLE, ENCLOSED BASE, DISH CABINET
28	SPARE NUMBER
29	SUGAR, FOOD
30	SHELF, WALL MOUNT
31	FOOD PROCESSOR
32	WORKTOP REFRIGERATOR
33	WORKTABLE WITH SINK
34	SHELF, WALL MOUNT
35	HAND SINK, WALL MOUNT
36	SPARE NUMBER
37	TABLE, ENCLOSED BASE, OPEN FRONT
38	SODA AND ICE DISPENSER (BY OTHERS)
39	SHOP-A, WATER STATION
40	iced tea brewer (HCS)
41	COFFEE MAKER, SATELLITE SYSTEM (HCS)
42	WORKTABLE
43	POS SYSTEM (BY OTHERS)
44	SPARE NUMBER
45	SINK, MOP
46	SHELF, WALL MOUNT
47	SODA SYSTEM (BY OTHERS)
48	HAND SINK, WALL MOUNT
49	DOLLY, FOUR WHEEL
50	DOLLY, DISH RACK
51	POT & PAN RACK
52	SHELF, WALL MOUNT
53	CLEAN DISH TABLE/COMPARTMENT SINK
54	WYNNENASHER, DODGE TYPE, HIGH TEMP
55	CONDENSATE HOOD
56	SOILED DISH TABLE
57	DISH TABLE, SORTING SHELF
58	SPARE NUMBER
59	SPARE NUMBER
60	WALK IN COOLER/REFREEZER
61.1	COOLER EVAPORATOR COIL
61.2	COOLER CONDENSING UNIT
62.1	FREEZER EVAPORATOR COIL
62.2	FREEZER CONDENSING UNIT
63	COOLER STORAGE SHELVING
64	DELETED
65	FREEZER STORAGE SHELVING



A Division of
The Hotel Group
375 Commerce Drive
Arlingwood, NY 11228
(718) 991-8000
Fax (718) 991-2222

Offices:
Buffalo
Rochester
Albany

REVISIONS

DATE: 08-11-01

BY: J. J. J.

FOR: J. J. J.

PROJECT: J. J. J.

SCALE: 1/4" = 1'-0"

FOOD SERVICE EQUIPMENT FLOOR PLAN
THE INN AT DIAMOND DOVE
1000 DIAMOND DOVE
GREAT LAKES, ILLINOIS

OWNER: J. J. J.

DESIGNER: J. J. J.

DATE: 08-11-01

BY: J. J. J.

FOR: J. J. J.

PROJECT: J. J. J.

SCALE: 1/4" = 1'-0"

OWNER: J. J. J.

DESIGNER: J. J. J.

DATE: 08-11-01

BY: J. J. J.

FOR: J. J. J.

PROJECT: J. J. J.

SCALE: 1/4" = 1'-0"



- F. POLICE IN WYOMING SHOWN ALL OVER AND HAVE BEEN MADE FOR VAGUET, TRAPS, ETC. LINE IN KNOWS OF FLOOR TO BE TURNED UP APPROX. 3" ABOVE FINISHED FLOOR (HAPPENED ON 11/1/78) NOTED ALL INFORMATION MADE OUT OF WALL (PH) BIRCHGATE CONCEALED LINE.

2. **POUS/IN INFORMATION IS FOR FOODSERVICE EQUIPMENT ONLY, AND MUST**

1. EQUIPMENT NOTED AS EXISTING, BY OWNER, OR SUPPLIED BY A VENDOR OTHER THAN THE FIRM MUST HAVE ALL PLUMBING, ELECTRICAL, AND HVAC MECHANICAL CONNECTIONS VERIFIED BY THE GENERAL CONTRACTOR PRIOR TO CONSTRUCTION.

4. ALL ROUGHING MUST BE DONE IN ACCORDANCE WITH LOCAL CODE

4. ALL PLUMBING AND TIE-IN CONNECTIONS TO BE FURNISHED AND INSTALLED BY OTHER THAN KITCHEN EQUIPMENT CONTRACTOR.

7. ALL DIMENSIONS ARE TAKEN FROM FINISHED FLOORS, FINISHED WALLS OR DOOR/VAN CENTER LINE. ALL DIMENSIONS ORIENTED RELATIVE TO THE CENTER LINE OF THE CONSTRUCTION.

4. GAS MAN TO COOKING EQUIPMENT REQUIRED A FUEL SHUT OFF VALVE TO BE SUPPLIED BY THE PLUMBING CONTRACTOR UNLESS OTHERWISE NOTED.

9. ATTENTION EQUIPMENT CONTRACTOR TO FURNISH GAS DOCKING EQUIPMENT WITH
PRELIMINARY INSTRUCTIONS FOR MANUFACTURERS SPECIFICATIONS AND LOGS,
COOKS,
10. REB LIAISON TO COORDINATE EQUIPMENT RECOVERY & WARE, EQUIPMENT RECOVERY

15. ELECTRICAL CONTRACTOR TO PROVIDE THERMAL OVER-CAD PROTECTION

12. ELECTRICAL CONTRACTOR TO PROVIDE MIDCIRCUIT CONNECTION FROM FIRE
SYSTEM TO POWER SUPPLY FOR ALL ELECTRICAL COOKING EQUIPMENT UNDER

13. ALL ROOFING DRAIN LINES ARE TO BE PIPED TO FLOOR DRAINS BY PLUMBING CONTRACTOR AND ARE DRAINING AS PER LOCAL CODE.

14. YASTS ON THREE COMPARTMENT BOOD TO BE MAINTAINED TO GLUESE TRAP
PLUMBING CONTRACTOR, DREAGE TRAP TO BE SIZED AND SUPPLIED BY PLUMBING
CONTRACTOR, AS PER LOCAL CODE.

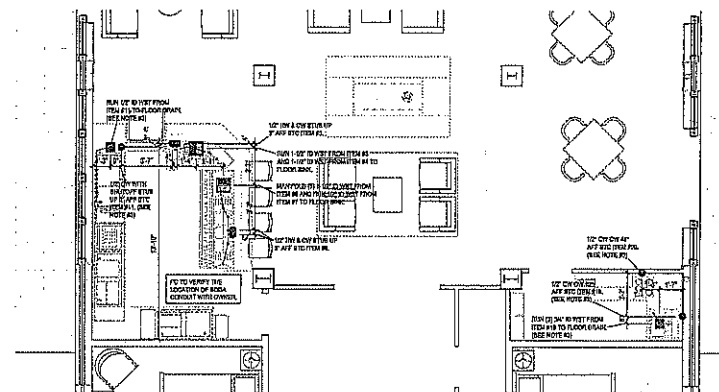
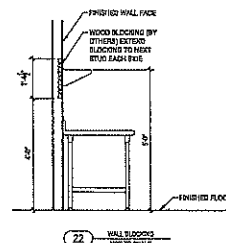
18. PLUMBING CONNECTION TO FURNACE AND INITIAL HOT AND COLD WATER

77. GENERAL CONTRACTOR TO PROVIDE TRANSFER LEVEL, FLOOR AND WEATHERING COAT (2-4) IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:

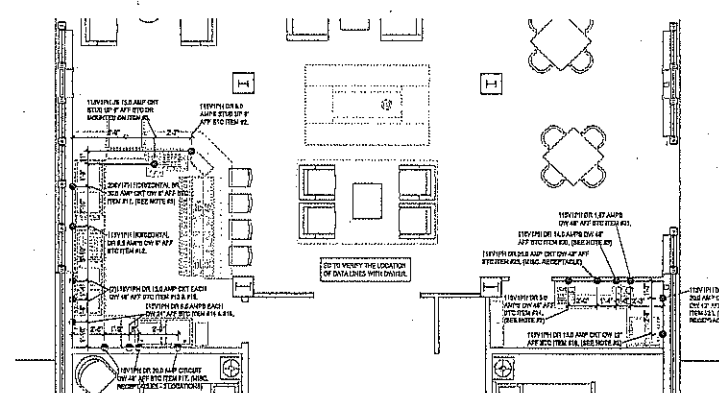
15. WASTE OR DISPOSAL TO BE DONE TO A JOB SHOULD BE NOTIFICATION BY OR THROUGH THE CONTRACTOR (AS APPLICABLE) FOR HAZARDOUS WASTE AND HAZARDOUS. REG. WILL BE RESPONSIBLE FOR CONNECTIONS TO MEET TRAVEL LINES, CONNECTIONS IN HAZARDOUS FACILITY.

- CONTRACTOR INTERCEPTED BE BIDDING AND SUPPLIED BY PLANNING CONSTRUCTION
 WITH LOCAL CODE.

EQUIPMENT SCHEDULE	
ITEM NO.	EQUIPMENT CATEGORY
1	BACK TOP & DIE WALL (BY OTHERS)
2	BAKERY CASE, REFRIGERATED
3	UNIFORM BLENDER STATION
4	CHOWDROUN
5	EMERY RECEPTACLE
6	UNIFORM SINK WITH CHARGING & SPREAD PANS
7	UNIFORM ICE CREAM
8,1	BODA RUN (BY OTHERS)
9	BLENDER
10	SPARE MASTER
11	BACK BAR REFRIGERATOR
12	REFRIGERATED MACHINES (BY OTHERS)
13	BACK BAR TOP COUNTER
14	P.O. SYSTEM (PNC)
15	WATER REFRIGERATOR
16	COUPERS/TOP WHISK/SPRINGER/SPRINGER (PNC)
17	BEER REFRIGERATION
18	BACK BAR TOP (BY OTHERS)
19	SPARE MASTER
20	NOVA ICE & WATER DISPENSER (BY OTHERS)
21	COFFEE MAKER (BY OTHERS)
22	FRANKLIN COFFEE
23	SUPPLY WALL MOUNT
24	BEVERAGE COUNTER
25	P.O.B. SYSTEM (BY OTHERS)

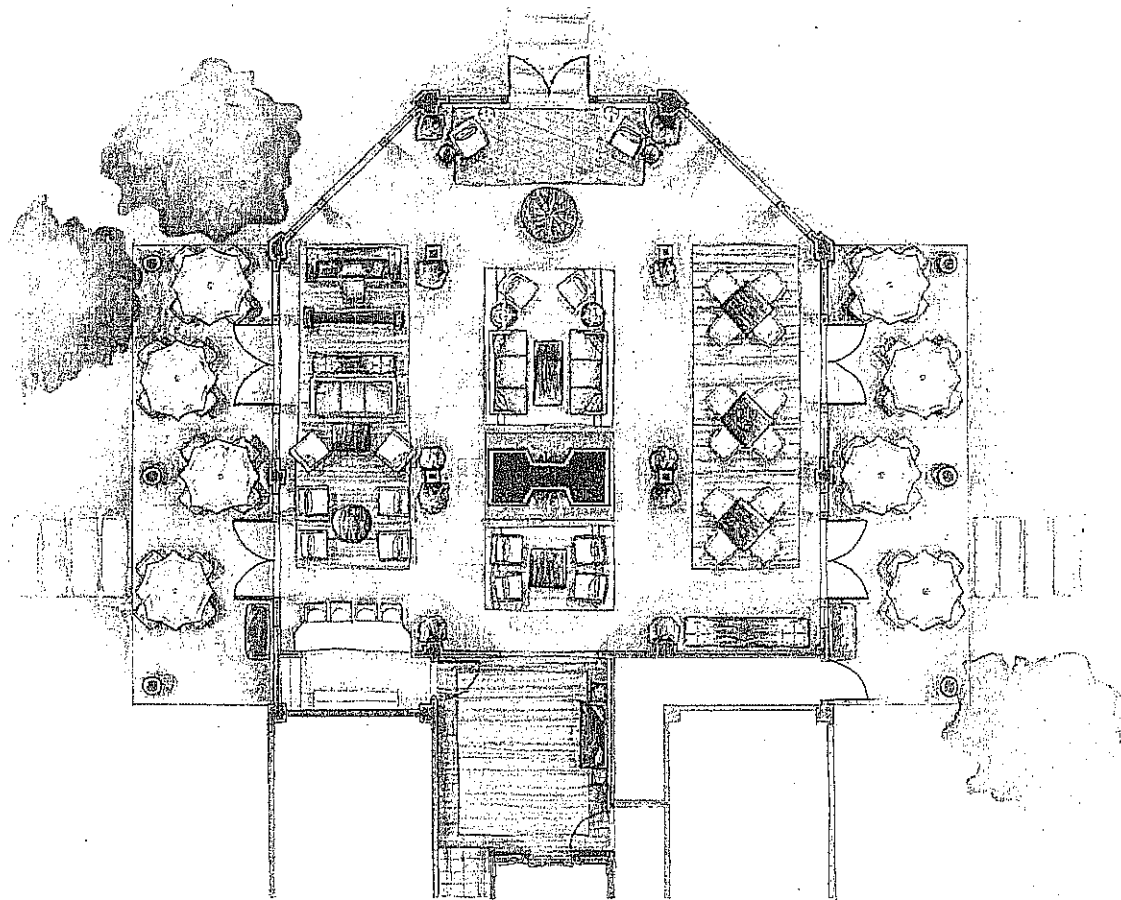


PLUMBING ROUGH IN FLOOR PLAN

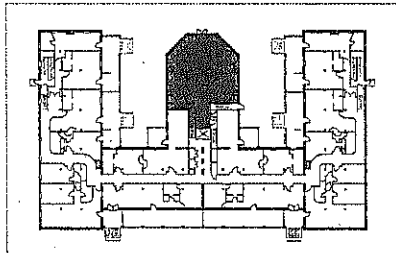


ELECTRICAL ROUGH IN FLOOR PLAN

[illegible]



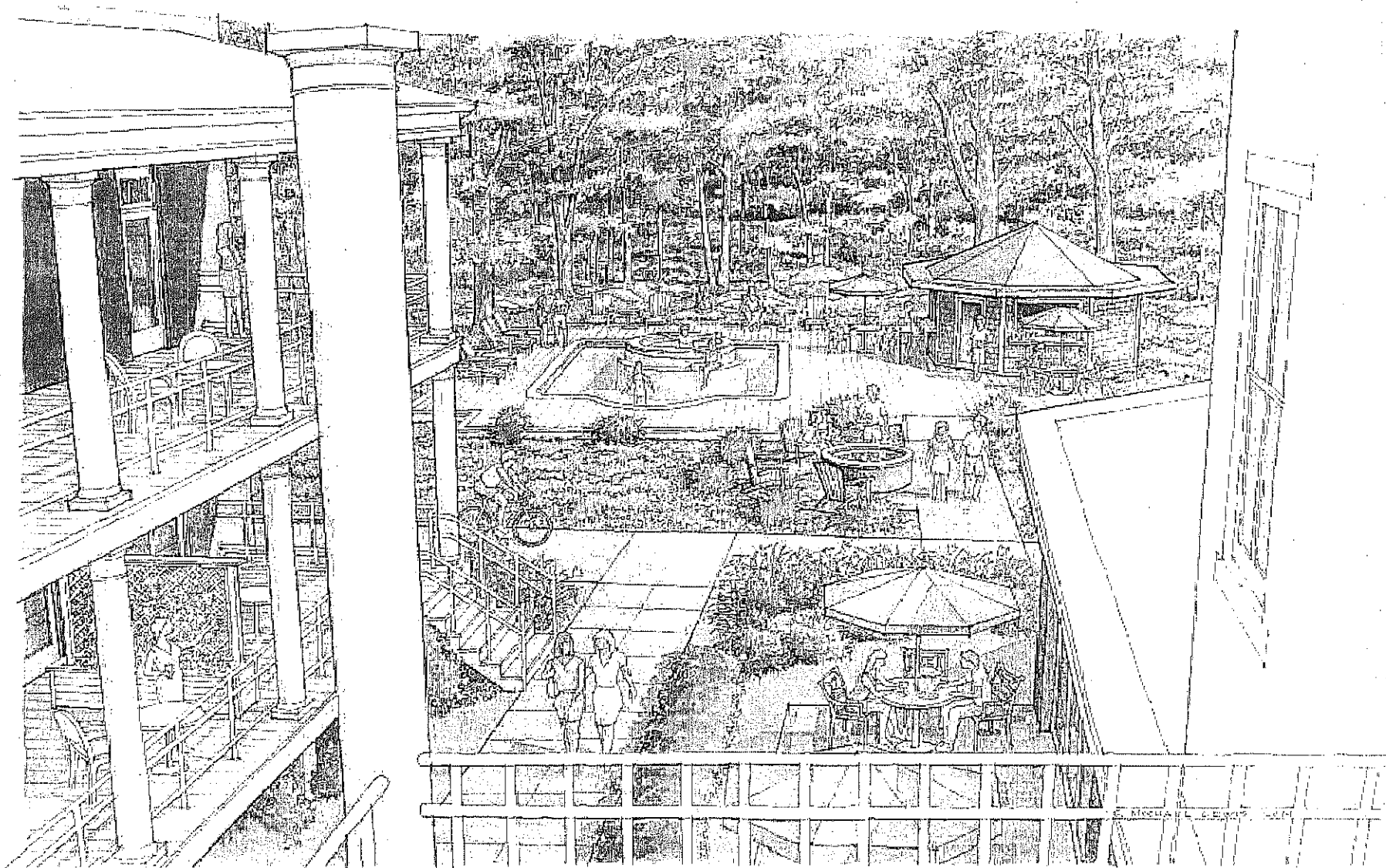
KEY PLAN



DISCLAIMER:
Drawing for design purposes only.
May differ from final configuration.

THE INN AT DIAMOND COVE - LOBBY/MULTI-FUNCTION ROOM PLAN

Prepared by: ARCHETTE ARCHITECTS AND TRUSCULLAS INTERIORS
For: *The Inn at Diamond Cove, LLC*



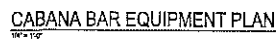
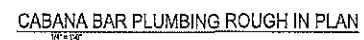


Diagram illustrating the connection between a wall and a floor. The wall is 8' high and 8' wide. The floor is 8' wide. The wall is labeled "FINISHED WALL FACE". The floor is labeled "FINISHED FLOOR". The wall is labeled "WALL BLOCKING (BY OTHERS) EXTEND BLOCKING TO NEXT RIB JOINT". The floor is labeled "WALL BLOCKING NOT TO MOVE".



12. ALL INTEREST DUES (UNLESS TO BE PAID TO FUNDING CREDITORS BY PLANNING CONTRIBUTION) ARE APPLIED AGAINST AN INTEREST DUE.
13. INSTEAD OF THESE CONTRIBUTIONS BEING TO BE MANAGED TO SPREAD THEM BY PLANNING CONTRIBUTION, SPREAD THEM TO BE RECEIVED AND SUPPLIED BY PLANNING CONTRIBUTION AS PER LOCAL CODE.
14. LOCATION OF REMOTE CONTRIBUTIONS, ON A LIMITED BASIS, AND CHARGE INTEREST TO BE PAID FOR THE INTEREST DUE TO CONTRIBUTION.
15. PLANNING CONTRIBUTION TO PLANNING AND INTEREST, NOT AND ONLY INTEREST DUE TO BE PAID AS AN IMPACT SYSTEM THAT SPREADS VALUES ACROSS DIFFERENT PORTS.
16. INTEREST CONTRIBUTION FOR OTHER TO PROVIDE TRAVEL, TRUCK, FUEL, AND OTHER RESOURCES AND APPLICABLE FOR OTHER TO PROVIDE TRUCK AND FUEL, NOT ONLY INTEREST DUE FOR CONTRIBUTION TO BE TRAVEL TRUCK, FUEL, AND OTHER RESOURCES.
17. INTEREST CONTRIBUTION TO BE PAID TO A QUALIFIED INTEREST BY PLANNING CONTRIBUTION TO BE RECEIVED AND SUPPLIED BY PLANNING CONTRIBUTION AS PER LOCAL CODE.



Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

March 24, 2015

The Inn at Diamond Cove
Attn: Aaron Black
468 Fore St.
Portland, ME 04101

Re: The Inn at Diamond Cove LLC d/b/a The Inn at Diamond Cove. Application for a Class IA 40+ Rooms License with Entertainment without Dance and Outdoor Dining on Private Property at 22 McKinley Court.

Dear Mr. Black,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday April 6th at 7 p.m.** for the review of your application for a Class IA 40+ Rooms License with Entertainment without Dance and Outdoor Dining on Private Property for The Inn at Diamond Cove at 22 McKinley Court. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

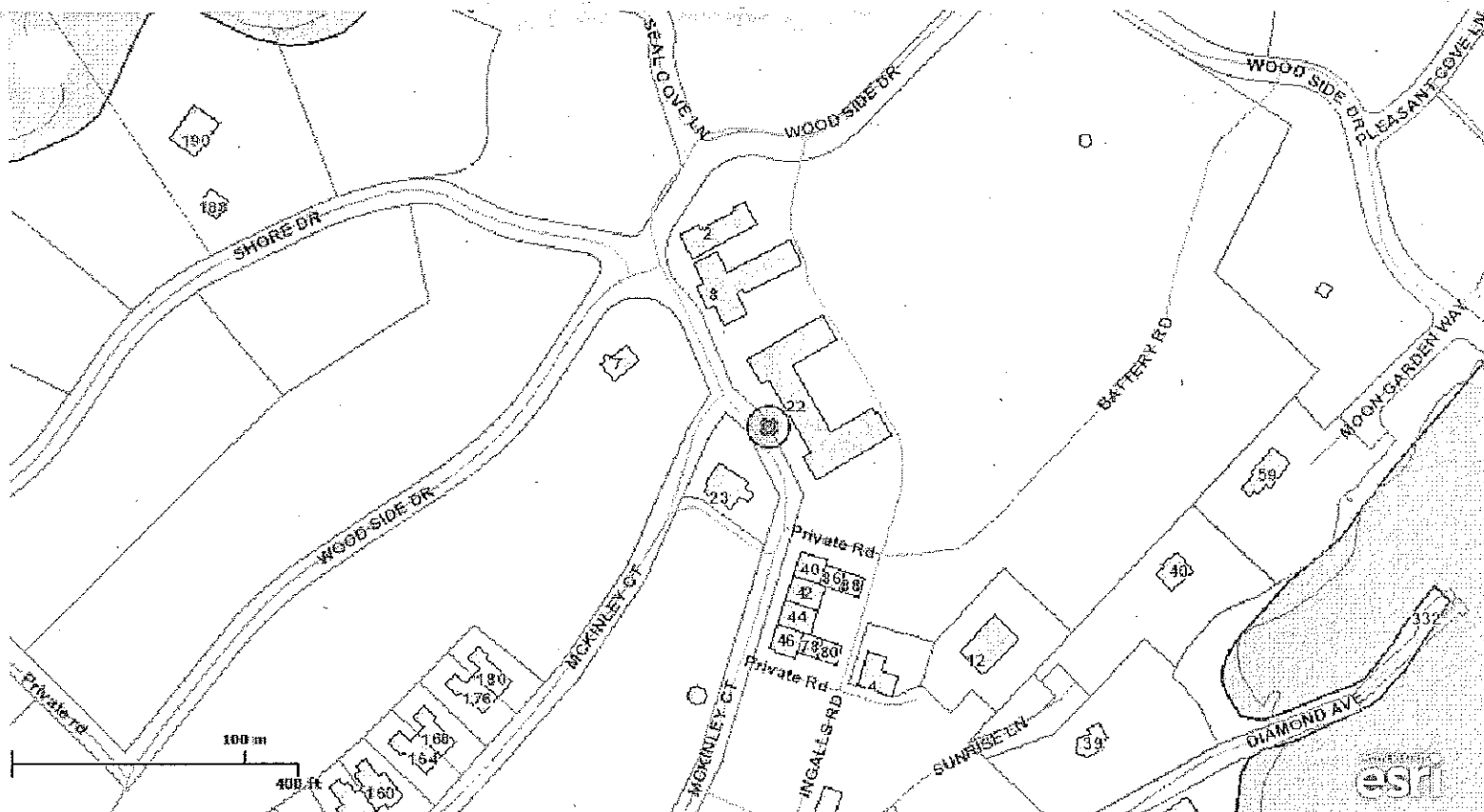
You or a representative of the business must be present at this meeting in the event that the City Council has questions regarding the license application. If there is no representation and questions arise, the issue could be postponed.

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

Sincerely,

Janice Gardner
Business License Administrator
207-874-8557
bl@portlandmaine.gov

My Map



Copyright 2011 Esri. All rights reserved. Tue Mar 24 2015 08:42:36 AM.



Outdoor Dining Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

☒ New Application for Outside Dining ☐ Renewal Application for Outside Dining City Clerk signature for liquor license approval: _____ Pending Council Date: 4/6/15		
Location Name & Address: The Inn at Diamond Cove, 22 McKinley Ct, Great Diamond Island 04109	Chart 83E	Block E
Owner & Phone #: David P. Hart/Managing Partner 716.893.6551	Lot 460	
Applicant *must* be owner or lessee Name: David P Hart Address: 617 Dingens St City, State & Zip: Buffalo, NY 14206 E-Mail: dhart@harthotels.com	Total Square Footage of Proposed Seating Area: ¹ Annual Fee: \$80 Total Sq. Ft.: _____ Sq. Ft. Fee: (sq ft x \$2) \$ _____ (Due when issued) Total Fees: \$ _____ (Permit not issued until all fees are paid)	
Current use: 44 room inn with dining facilities		
Business name: The Inn at Diamond Cove		
Seating area dimensions: _____		
How many chairs? 32 How many tables? 8 ☒ Yes Alcohol is served. ☐ No Alcohol being served.		
Who should we contact for the pre-inspection: Aaron Black		
Mailing address: 468 Fore St Portland, ME 04101 Phone: 207.775.9090		

Please submit all of the information outlined in the Outdoor Dining Application Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information visit us on-line at www.portlandmaine.gov, stop by the Building Inspections office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant: <u>David Hart</u> Digitally signed by David Hart DN: cn=David Hart, o=City of Portland, ou=City of Portland, email=David.Hart@portlandmaine.gov, c=US Date: 2015.03.09 12:45:45 -0400	Date: 3/9/15
---	--------------

¹ In no instance shall the total square footage of dining area equal more than 10% of park space, unless the applicant receives a waiver from the Director of Parks and Recreation or his or her designee.

This is not a permit; you may not commence ANY work until the permit is issued.

*Order 200-14/15
Tab 21 4-6-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER RECEIVING AND REFERRING
ACTING CITY MANAGER'S FISCAL YEAR 2016 MUNICIPAL BUDGET
TO THE FINANCE COMMITTEE
AND SETTING DATE OF PUBLIC HEARING ON THE
FY 2016 MUNICIPAL BUDGET AND FY 2016 APPROPRIATION RESOLVE**

ORDERED, that the Acting City Manager's Fiscal Year 2016 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 2016 Municipal Budget and on the FY 2016 Appropriation Resolve on Monday, May 4, 2015, in City Council Chambers, 389 Congress Street at 7:00 p.m.

*Order 201-14115
Tab 22 4-6-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID BRENERMAN (5)
JON HINCK (A/L)
JILL C. DUSON, (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

**ORDER HOLDING PUBLIC HEARINGS ON
FY2015-2020 HOUSING AND URBAN DEVELOPMENT
CONSOLIDATED PLAN, FY 2015-2016 ANNUAL ALLOCATION PLAN AND
APPROPRIATIONS FOR COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM, HOME PROGRAM, AND EMERGENCY SOLUTIONS
GRANT PROGRAM**

ORDERED, that public hearings be held on the FY 2015-2020 HUD 5-Year Consolidated Plan, the Federal Fiscal Year 2015 (City FY 2016) Annual Action Plan and appropriations for the Community Development Block Grant Program, HOME Program, and the Emergency Solutions Grant Program; and

BE IT FURTHER ORDERED, that such hearings be held on April 22, 2015 at the Housing and Community Development Committee Meeting at 5:30 p.m. and on May 4, 2015 at a Special City Council Meeting held at 5:00 p.m., both in Portland City Hall Council Chambers, 389 Congress Street.

Resolve 6-14/15
Tab 23 4-6-15

MICHAEL F. BRENNAN, (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID BRENERMAN (5)
JON HINCK (A/L)
JILL C. DUSON, (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

**RESOLUTION ADOPTING THE FY 2015-2016 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**

WHEREAS, the City of Portland, Maine has determined that there are pressing community and neighborhood needs for further federal assistance for housing and community development activities; and

WHEREAS, annual activities for the Consolidated Housing and Community Development Annual Action Plan have been recommended; and

WHEREAS, the United States Department of Housing and Urban Development has allocated the City of Portland \$1,791,064 of Community Development Block Grant ("CDBG") Entitlement Funds, for the program year 2015-2016 under Title I of the Housing and Community Development Act of 1974 (Public Law 93-383) as amended from time to time; and the City has also received Community Development funds in the amount of \$114,500 in program income, along with \$265,446 in CDBG Housing Program Income which is subject to the same regulations as the entitlement funds; a HOME Program Grant allocation of \$820,832, HOME Program income of \$210,000; Lead Safe Housing Program Income of \$280,413; local Housing Trust Funds of \$643,551; and \$161,834 of Emergency Shelter Grant funds; and

WHEREAS, the City Council of the City of Portland, Maine, desires to utilize these funds to support housing and community development activities;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Portland, Maine, hereby adopts the FY 2015-2016 Consolidated Housing and Community Development Annual Action Plan; and the sums of \$ 1,905,564 for the Community Development Block Grant Program, plus \$265,446 in CDBG Housing Program funding; \$1,030,832 for the HOME Program, \$280,413 in Lead Safe Housing Program Income, \$643,551 in local Housing Trust Funds and \$161,834 for the Emergency Shelter Grant Program are hereby appropriated for the purposes approved in the attached Plan and budgets as recommended by the City Manager; and

BE IT FURTHER RESOLVED, that the City of Portland, Maine, possesses legal authority to apply for the above referenced Community Development Block Grant Program Funds, HOME Program funds and Emergency Shelter Grant Program funds for the Program Year 2015-2016; and

BE IT FURTHER RESOLVED, that the City Manager be authorized to:

- 1) Apply for, accept and expend the Community Development Block Grant Entitlement Funds of \$1,791,064 and to expend \$114,500 in program income and \$265,446 in CDBG housing program income funds; \$820,832 of HOME Program funds and to expend \$210,000 of program income for a total of \$1,030,832; \$280,413 in Lead Safe Housing program income; \$643,551 in local Housing Trust Funds; and \$161,834 of Emergency Shelter Grant funds;
- 2) Officially represent the City of Portland, Maine, in connection with the application, including the execution of contracts on behalf of the City; and
- 3) Make budget adjustments to accommodate the final allocation announcement, expected to be release by HUD at a later date, for amounts less the City's Consolidated Plans guide for substantial amendment; and

BE IT FURTHER RESOLVED, that the City of Portland, Maine certifies that it will comply with all of the attached assurances and provide such additional information as may be required by the U.S. Department of Housing and Urban Development; and

BE IT FURTHER RESOLVED, that the foregoing FY 2015-2016 Housing and Community Development Annual Action Plan funds are hereby appropriated pursuant to the Budget attached hereto.



Memorandum

Planning and Urban Development Department
Housing and Community Development Program

To: Mayor Brennan and the Portland City Council
Cc: Jeff Levine, Planning and Urban Development Director
Mary Davis, Housing and Community Development Director
From: Amy Grommes Pulaski, HCD Program Manager
Date: March 26, 2015
Re: HUD's Consolidated Annual Action Plan 2015-2016

The Consolidated Annual Action Plan includes budgets for the Community Development Block Grant, HOME Program and the Emergency Solutions Grant. The total amount of funding the City of Portland is expected to allocate for the Consolidated Annual Action Plan is \$4,287,640, which includes allocations from the Department of Housing and Urban Development, program income and our local housing trust fund, detailed below:

- | | | |
|---------|--------------|---|
| 1. CDBG | \$ 1,791,064 | Expected HUD Allocation 2015-2016 |
| | \$ 114,500 | CDBG Program Income 2014-2015 |
| | <u>\$ 0</u> | CDBG Reprogrammed Funds |
| | \$ 1,905,564 | Total Expected CDBG funds to Allocate for 2015-2016 |

CDBG Funds by Category

\$405,113	Administration and Planning
\$525,270	Social Services
\$575,181	Development Activity
<u>\$400,000</u>	Employment Dev. Prgm. (\$300,000 in DA and \$100,000 in SS)
\$1,905,564	

Attached you will find a spreadsheet summarizing the recommendations from the City Manager (1a City Manager Recomm), recommendation letters from the CDBG Allocation Committee (1b CDBG AC Recomm) and the Employment Development Review Committee (1c EDP Comm Recomm). There were no appeals this year. Please note an additional \$114,500 in CDBG Program Income was able to be added to the City Manager's recommendations that were not included with the Committee recommendations.

- | | | |
|---------|-------------------|---|
| 2. HOME | \$ 820,832 | Expected HUD Allocation 2014-2015 |
| | <u>\$ 210,000</u> | HOME Program Income 2013-2014 |
| | \$1,030,832 | Total Expected HOME funds to Allocate for 2014-2015 |

Other Housing Funding

CDBG	\$ 265,446	CDBG Housing Program Income Funds
LEAD	\$ 280,413	Lead Safe Housing Program Income Funds
Trust	<u>\$ 643,551</u>	Local Housing Trust Funds
	\$1,189,410	

Attached you will find a Memo to the Mayor and City Council from Mary Davis explaining the Housing Budget (2 Housing Budget).

- | | |
|-------------------------------|---|
| 3. Emergency Solutions Grant: | |
| | \$161,834 Expected HUD Allocation 2014-2015 |

Attached you will find the proposed Emergency Solutions Grant budget (3 ESG Budget).

CDBG City Manager Recommendations 2015-2016

Final
Allocation
2-10-14

Administration and Planning

Type	Priority	Organization	Program/ Project	Request	Priority Impact/ Goal 20 pts	Guiding Principles 35 pts	Partner/ Collabor 15 pts	Capacity to Deliver 30 pts	Penalty	Total	Committee Recomm	City Manager Recomm	Council Allocation
1 AP	All	Planning & Urban Dev Dept	CDBG Admin and Planning	\$405,727							\$405,113	\$405,113	
Total Admin & Planning Available				\$405,113						Sub Total	\$405,113	\$405,113	\$0

Development, Economic Development and Construction

Type	Priority	Organization	Program/ Project	Request	20 pts	35 pts	15 pts	30 pts					
15 ED	WS-JC	COP Economic Development	Business Assistance Program	\$150,000	18.4	31.3	13.9	28.2	0	91.8	\$150,000	\$100,000	
12 DA	HS	Community Housing of Maine	CHOM Supportive Housing in Portland	\$250,000	18.6	31.6	14.2	26.9	0	91.3	\$250,000	\$210,000	
14 DA	MA	COP Planning & Urban Dev	Bike Parking in E Bayside, Munjoy, Libbytown & Parkside	\$17,500	17.7	29.9	13.8	26.8	0	88.2	\$17,500	\$7,181	
5 CON	SN	COP Public Services	Greenleaf Street Reconstruction	\$218,000	17.3	32.4	11.3	26.7	0	87.7	\$43,181	\$218,000	
16 ED	WS-MICRO	Creative Portland Corporation	Assets for Artists: Portland, Maine	\$34,875	16.1	29.1	14.1	26.2	0	85.5			
3 CON	MA	COP Public Services	Reiche School- Brackett Street Pedestrian Safety Project	\$118,430	17.6	31.2	11.7	24.3	0	84.8		\$40,000	
4 CON	MA	COP Public Services	Libbytown Pedestrian Accessibility Improvements P3	\$233,091	16.8	30.5	11.1	26.1	0	84.5			
7 CON	SN	COP Public Services	Big Belly Solar Bus Stop Compactor Deployment	\$50,628	16.7	30.6	10.9	25.9	0.25	83.85			
9 CON	WS	Learning Works	Renovation of Historic 181 Bracket Phase 2	\$121,900	16.5	28.9	11.1	26.3	0	82.8			
8 CON	SN	COP Public Services	Tree Planting	\$15,000	17.4	31.3	8.1	25.7	1	81.5			
2 CON	MA	COP Public Services	Curb Ramps	\$50,000	17.4	30.5	7.8	25.3	0	81			
10 CON	WS	Catherine Morrill Day Nursery	CMDN Frontage Restoration Project	\$78,942	15.8	28.0	11.1	25.5	0.5	79.9			
6 CON	MA/ SN	COP Recreation & Facilities	Cliff Island School Playgrounds	\$52,700	15.8	27.6	11.3	24.7	0	79.4			
11 CON	HS	Cathedral of St Luke	The Deanery	\$243,352	17.6	27.8	13.6	21.2	1	79.2			
13 DA	HS	Machigonne Comm Land Trust	Luther Street Home	\$65,000	14.8	25.9	13.2	23.4	0	77.3			
Total Development, Econ Dev. & Construction Requests				\$1,699,418									
Total Development, Econ Dev. & Construction Available				\$460,681						Sub Total	\$460,681	\$575,181	\$0

Social Service

Type	Priority	Organization	Program/ Project	Request	Priority Impact/ 20 pts	Guiding Principles 35 pts	Partner/ Collabor 15 pts	Capacity to Deliver 30 pts	Penalty	Total	Committee Recomm	City Manager	Council Allocation
17	SET	SN	Police Department	Community Policing	\$150,000						\$150,000	\$150,000	
22	SS	BN	Preble Street	Food Programs	\$50,000	19.9	33.8	14.3	27.8		95.8	\$50,000	\$50,000
27	SS	SN	Wayside Food Programs	Direct Service Programs	\$25,424	19.4	33.5	14.4	28.2		95.5	\$25,424	\$25,424
20	SS	BN	Preble Street	Resource Center	\$45,000	19.5	33.6	14.1	27.8		95	\$45,000	\$45,000
25	SS	SN	Amistad Inc.	Amistad Peer Support and Recovery Center	\$30,000	19.2	33.2	13.8	28.2		94.4	\$30,000	\$30,000
21	SS	BN	Preble Street	Florence House Women's Shelter	\$30,000	19.4	33.2	14.1	27.6		94.3	\$30,000	\$30,000
23	SS	BN	Preble Street	Joe Krelsler Teen Shelter	\$30,000	19.4	32.7	14.4	27.8		94.3	\$30,000	\$30,000
28	SS	SN	Milestone	Homeless Outreach & Mobile Engagement HOME Team	\$75,000	18.9	33	14.2	27		93.1	\$75,000	\$75,000
26	SS	SN	Portland Comm Health Center	Integrated Behavioral Health Program 63 Preble	\$125,000	19.4	33.4	11.4	28	0.25	91.95	\$89,846	\$0
32	SS	WS	The Opportunity Alliance	Parkside Neighborhood Center	\$55,000	18.7	31.6	13.9	27.7		91.9		
24	SS	BN	Amistad Inc.	Amistad Peer Coaching Initiative	\$25,000	19.2	32.4	13	27.1	0.25	91.45		\$41,720
30	SS	WS	Catherine Morrill Day Nursery	CDBG Child Care Assistance Program	\$99,402	17.9	31.1	14.6	27.4		91		\$48,126
19	SS	BN	Frannie Peabody Center	Integrated Access to Care	\$40,000	17.5	30.9	13.8	26.9		89.1		
31	SS	WS	Learning Works	English Language Program	\$35,000	17.6	29.8	13.4	26.9	0.25	87.45		
18	SS	BN	The Locker Project	Feeding the Future	\$20,000	18.5	31.3	11.9	24.7		86.4		
29	SS	WS	Community Financial Literacy	Financial Education for Refugees and Immigrants	\$35,000	15.7	29	14.1	24.9	0.25	83.45		

Total Social Services \$869,826

Total Social Services Available \$525,270

ALL CDBG REQUESTS TOTAL \$2,974,971

Sub Total \$525,270 \$525,270 \$0

Employment Development Program

Type	Priority	Organization	Program/ Project	Request	Performance PJA 80 pts Micro 55 pts	Projections PJA 20 pts Micro 20 pts	Total Points - EDP of 100 - Micro of 75	Percent of Total	EDP Committee Recomm	City Manager Recomm	Council Allocation
EDP	JC-SS	Coastal Enterprises Inc	Portland Jobs Alliance: Job Creation, Job Skills, Training and Support Services	\$340,000	66.8	17.4	84.2	84.2%	\$340,000	\$340,000	
EDP	MICRO	Coastal Enterprises Inc	Portland Microenterprise Assistance Project	\$60,000	46.2	17.4	63.6*	84.8%	\$60,000	\$60,000	

Total Employment Development Program \$400,000

Total Employment Development Program Available \$400,000

Sub Total \$400,000 \$400,000 \$0

* Portland Microenterprise Assistance had a total possible 75 points (not 100)

TOTAL \$1,791,064 \$1,905,564

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

February 13, 2015

Sheila Hill-Christian, Acting City Manager
 City Hall
 389 Congress Street
 Portland, Maine 04101

Dear Ms. Hill-Christian,

We are pleased to submit the CDBG Annual Allocation Committee's recommended budget allocations for Year 41 of the Community Development Block Grant (CDBG).

On a national level, funding for the Community Development Block Grant has decreased by approximately 1.3% this year.

CDBG ALLOCATION	Year 40 FY 14-15	Year 41 FY 15-16	Difference in Dollars
Planning and Administration Cap	\$409,515	\$405,113	\$4,402
Social Service Cap	\$633,360	\$625,270	\$8,089
Development Activities	\$772,702	\$760,681	\$12,021
TOTAL	\$1,815,577	\$1,791,064	\$24,513

**The Development Activities amount for Year 40 includes \$275,000 of funds reallocated from contingency. There are no contingency funds available for Year 41 at this time.*

Based on Council approval, a portion of this year's Social Service and Development Activities funding will go toward funding the second year of the Employment Development Program. The amount of funding available for our annual CDBG process is in the far right column in the table below. Funding recommendations for the Employment Development Program will be presented separately.

CDBG ALLOCATION	Year 41 FY 15-16	Employment Development Program Funds	Amount of CDBG Funds Available for Annual Requests
Planning and Administration Cap	\$405,113	\$0	\$405,113
Social Service Cap	\$625,270	\$100,000	\$525,270
Development Activities	\$760,681	\$300,000	\$460,681
TOTAL Allocation	\$1,791,064	\$400,000	\$1,391,064

As in past years, the need for CDBG funding continues to exceed the amount of funds available. The total dollars requested is \$3,374,971 resulting in a gap of \$1,583,907 between CDBG funds available for annual requests and the total amount of annual requests. As in prior years, we were faced with

difficult choices in this year's recommendation process and struggled with which applications to recommend for funding. The Committee stayed focused on the scoring criteria in order to be fair to all applicants.

The following sections of this letter outline our funding recommendations. The first section explains the history and progress Portland's CDBG Program has undergone over the last four years. The second section provides a description of this year's process, how the applications were reviewed and scored, and finally our recommendations for funding.

HISTORY AND CURRENT STATUS OF THE CDBG PROGRAM

Over the last six years, the CDBG program has undergone significant review. This review resulted in changes to the allocation process as summarized below.

In 2008 the following steps were implemented:

Council Order 70-7/08 (HCD Task Force Ten Point Plan)

- Creation of the CDBG Priority Task Force
- Creation of the CDBG Annual Allocation Committee
- Funded projects are to be completed within two years of award

In 2009 the following steps were implemented:

Council Order 70-7/08 (HCD Task Force Ten Point Plan)

- CDBG Application process is to comply with the City's Purchasing Ordinance
- Council Order 91-08/09 (CDBG Priority Task Force Recommendations)
- Application and scoring reflect the goal of building strong, self sustaining neighborhoods by having applications address the priority impact areas and guiding principles.

In 2010 the final recommendations by the CDBG Priority Task Force were implemented, including:

Council Order 91-08/09 (CDBG Priority Task Force Recommendations)

- \$20,000 minimum request.
- Small grants in the amount of \$7,500 are available to social services for capacity building and to small businesses micro-enterprises for technical assistance
- Social service basic needs set aside for up to 10% of the HUD allocated CDBG grant
- Social service multi-year initiatives requests guidelines defined and encouraged
- Economic development job creation request guidelines defined
- The administration and planning request would be presented to and reviewed by the Committee, but would not be voted upon in a competitive environment

In 2011, the Council further reviewed the program and the implementation of all of the recommendations. Based on this review, the City Council implemented the following changes:

- *Eliminate* the small grants award of \$7,500 made available to social services for capacity building and to small businesses micro-enterprises for technical assistance
- *Eliminate* the social service basic needs set aside, previously set to be up to 10% of the HUD CDBG allocation
- *Lower* the minimum grant request from \$20,000 to \$10,000
- *Create* a maximum grant request per applicant:
 - \$150,000 for Social Service applicants

- \$250,000 for Development Activities applicants
- *Create* a Maximum Cumulative Grant Allocation for City Applications
 - 45% of funding available for Social Services
 - 85% of funding available for Development Activities
- *Create* an economic development set aside/ cap for job creation for \$100,000
- *Create* a Priority Focus for Program Year 2011-2012:
 - For Social Services additional points can be allocated for applications meeting the Work and Shop priority criteria
 - For Development Activities additional points can be allocated for projects located in Libbytown, Census Tract 20.02

In 2012 there were minor adjustments made to the allocation process

- Based on pressure and direction from HUD we will be paying our grantees based on a cost per unit of service. Each applicant has provided a cost per unit of service. Funded applicants will be submitting funding requisitions and be paid based on the number of units provided and persons served. This does not apply to construction projects.
- Staff will be administering bonus and penalty points on the applications.
- Priority for Social Service applications is child care. Priorities for Development Activities are job creation and projects located in Libbytown or Census Tract 20.02.

Additionally, in 2012 Priority Task Force focused priorities even further:

- To create Sustainable Workforce Development Program(s) that move Portland residents out of poverty into sustained employment and financial stability.
 - 1) Invest in businesses with Portland locations to enable them to expand and create jobs, as eligible by HUD regulations.
 - 2) Provide a continuum of services to increase a Program Participant's professional capacity, financial stability, and ability to maintain employment, through: career advancement services, financial stability and job retention support services.
- Place Program Participant's in newly created sustainable Portland-based jobs.

In 2013 CDBG Working Group determined how to implement the Priorities of the 2012 Task Force:

- Invest 1) in businesses to create net new jobs or 2) to create microenterprise businesses (businesses with less than 5 employees where the owner is LMI Portland)
- Fill 66% of the net new jobs with low to moderate income (LMI) Portland residents.
- Priority will be given to applicants that will hire or serve more LMI Portland residents, homeless persons, New Americans, or single-parent head of households will be given preference
- Set aside \$400,000 (\$300,000 in Development Funds and \$100,000 in Social Service Funds) for the new Workforce Development Initiative now renamed the Employment Development Program.
- Fund at least two applicants
- Funding requests can be for two years
- Tracking of jobs will be for two years after job creation or microenterprise creation
- Success will be evaluated based on return on investment (CDBG investment vs. increase of income of new employees/ business owners)
- The first round of funding will begin in 2014.

2014 Minor adjustments

- Priority for ALL Social Service and Development Activity applications is child care and basic needs. These applications will all receive an additional three bonus points.
- There is a set aside of \$150,000 for Community Policing
- Penalty points were reduced: errors are only 0.25 points, and blanks are not penalized.
- The Employment Development Program received a \$400,000 set aside, including \$300,000 from Development Activities and \$100,000 from Social Services

2015 Minor adjustments

- No Bonus Points
- There was a new "Construction Only" application
- Guiding principles were targeted for Development, Economic Development and Construction applications

THE PROCESS AND REVIEW

CDBG Applications were available on October 8, 2014. The mandatory applicant's meeting was held on October 9, 2014 at 6:00pm in Merrill Rehearsal Hall. All applications were due on Thursday November 13, 2014 at 2:00pm.

We received fifteen (15) Development Activities applications and sixteen (16) Social Service Applications, along with an Administration and Planning request of \$405,727, for a total of \$2,974,971 in funding requests through our annual request process.

There was a total of \$1,699,418 of Development Activity requests with \$460,681 available, and \$869,826 of Social Service requests with \$525,270 available.

The Allocation Committee Review and Funding Methods

Our Committee first met for this funding year on December 18, 2014. The Committee met six (6) times to discuss Administration and Planning, Development Activities and Social Service applications.

The Committee read each application individually prior to the meeting. At the meeting the Committee would discuss each proposal. If questions arose, staff documented the questions and forwarded them to the applicant to answer. The answers were then shared with the Committee.

Applications were organized by score from the highest to the lowest within each category. The City Council has directed the Committee to recommend full funding based on request for all applications; therefore each applicant was awarded full funding, until the funding was exhausted.

RECOMMENDATIONS

Administration and Planning Funding

The Committee reviews information regarding Administration and Planning, but does not score the application competitively. Administration funding is essential for operating the CDBG program and

reporting to HUD. The Planning & Urban Development Department submitted a budget of \$405,727 and the Committee is recommending full funding based on HUD allocation.

Organization	Program	Request	Points	Comm. Recomm.
Planning & Urban Development Department	Administration	\$405,727	NA	\$405,113

Development Activities Funding

The Committee received fifteen (15) Development Activities applications including construction and economic development, requesting a total of \$1,699,418, and only \$460,681 is available. The City Council's *85% Rule for Development Activities* is still in place, which specifies that a maximum of 85% of the Development Activity funding can go to fund City applicants, the remaining 15% must go to outside requests. This rule did not affect the Committee's recommendations this year. The following table outlines the highest scoring applications, their requests and the recommended allocation from the Committee.

Organization	Program	Request	Points	Comm. Recomm.
City of Portland Economic Development Department <i>Application #15</i>	Business Assistance Grant	\$150,000	91.8	\$150,000
Community Housing of Maine <i>Application #12</i>	CHOM Supportive Housing Development in Portland	\$250,000	91.3	\$250,000
City of Portland Planning Department <i>Application #14</i>	Bike Parking in East Bayside, Munjoy Hill, Libbytown and Parkside	\$17,500	88.2	\$17,500
City of Portland Public Services Department <i>Application #5</i>	Greenleaf Street Reconstruction	\$218,000	87.7	\$43,181*

*The amount of funding available for Greenleaf Street is only \$43,181. HUD regulations do not allow "banking" of funds until more funds is available. Therefore the committee recommends putting \$34,875 toward the next highest scoring application: Assets for Artists. For the remaining \$8,306, the committee recommends putting the funds toward Big Belly Solar Waste Compactors because it is the next highest scoring applicant which can utilize that amount of funds.

If additional funds are available through contingency the Committee recommends funding the next highest scoring project which can successfully utilize the funds available.

Social Service Funding

The Committee received sixteen (16) Social Service applications, including a \$150,000 request from Community Policing which will be funded through a set-aside. There is \$869,826 of Social Service requests with \$525,270 available. The City Council's *45% Rule for Social Services* is still in place, which specifies that a maximum of 45% of the Social Service funding can go to fund City applicants,

the remaining 65% must go to outside requests. This rule did not affect the Committee's recommendations this year. The following table outlines the highest scoring applications, their requests and the recommend allocation from the Committee.

Organization	Program	Request	Points	Comm. Recomm
COP Police Development	Community Policing	\$150,000	Set-aside	\$150,000
Preble Street	Food Programs	\$50,000	95.8	\$50,000
Wayside Food Programs	Direct Service Programs	\$25,424	95.5	\$25,424
Preble Street	Resource Center	\$45,000	95.0	\$45,000
Amistad	Peer Support and Recovery Center	\$30,000	94.4	\$30,000
Preble Street	Florence House Women's Shelter	\$30,000	94.3	\$30,000
Preble Street	Joe Kreisler Teen Shelter	\$30,000	94.3	\$30,000
Milestone	Homeless Outreach & Mobile Engagement Team	\$75,000	93.1	\$75,000
Portland Community Health Center	Integrated Behavioral Health Program at 63 Preble	\$125,000	91.95	\$89,846

The committee recommends both Preble Street and Wayside to reach out to the Locker Project to see if there are possibilities for collaboration and sharing of resources.

Funding Caps

The current funding caps are \$150,000 for social service applicants and \$250,000 for development activities. The committee expressed concern that one application is receiving more than half of the amount of development funds available. The committee is exploring various alternatives to lowering the cap in order to allow more projects to be funded.

SUMMARY

All projects that requested funding would be beneficial to our City, however due to limited dollars, not all were recommended for funding through this program. This is a competitive process; each applicant competed against all other applicants. The projects that are not being recommended for funding scored lower in each of the evaluation categories, and therefore in total points. A spreadsheet is attached which provides all scores for each application. A summary book can be provided to you upon request, and staff can provide a full version of all applications electronically.

As always, the Committee will continue to look for ways to improve the efficiency, effectiveness and transparency of the program. We welcome comments, suggestions, and feedback both from the Council and the public.

We thank you for your commitment to this program and your patience through its transition. We hope you are satisfied with the results.

We are especially grateful for our appointments to the Annual Allocation Committee, providing us with the opportunity to participate in this program, and offer our recommendations for your consideration. We look forward to seeing you on March 16 and April 6 and hearing your response.

Sincerely,

The CDBG Annual Allocation Committee for Program Year 2015-2016
Funding Year 2015-2016

Maxwell Chikuta, Chair
Jackie Wiegleb, Vice Chair
Matthew Birchby
Nadeen Daniels
Wendy Harmon
Rhonda Juneau
Annette Rogers
Matthew Purington
Jeff Schwartz

Attachments: CDBG Allocation Committee Funding Recommendations 2015-2016 (spreadsheet)

1b CDBG AC Recomm

Final
Allocation
2-10-14

CDBG Allocation Committee Recommendations FY2015

Type	Priority	Organization	Program/ Project	Request	Priority Impact/ Goal 20 pts	Guiding Principles 35 pts	Partner/ Collabor 15 pts	Capacity to Deliver 30 pts	Penalty	Total	Committee Recomm	City Manager Recomm	Council Allocation
1	AP	All	Planning & Urban Dev Dept	CDBG Admin and Planning	\$405,727						\$405,113		

Total Admin & Planning Available \$405,113

Type	Priority	Organization	Program/ Project	Request	20 pts	35 pts	15 pts	30 pts					
15	ED	WS-JC	COP Economic Development	Business Assistance Program	\$150,000	18.4	31.3	13.9	28.2	0	91.8	\$150,000	
12	DA	HS	Community Housing of Maine	CHOM Supportive Housing in Portland	\$250,000	18.6	31.6	14.2	26.9	0	91.3	\$250,000	
14	DA	MA	COP Planning & Urban Dev	Bike Parking in E Bayside, Munjoy, Libbytown & Parkside	\$17,500	17.7	29.9	13.8	26.8	0	88.2	\$17,500	
5	CON	SN	COP Public Services	Greenleaf Street Reconstruction	\$218,000	17.3	32.4	11.3	26.7	0	87.7	\$43,181	
16	ED	WS-MICRO	Creative Portland Corporation	Assets for Artists: Portland, Maine	\$34,875	16.1	29.1	14.1	26.2	0	85.5		
3	CON	MA	COP Public Services	Reiche School- Brackett Street Pedestrian Safety Project	\$118,430	17.6	31.2	11.7	24.3	0	84.8		
4	CON	MA	COP Public Services	Libbytown Pedestrian Accessibility Improvements P3	\$233,091	16.8	30.5	11.1	26.1	0	84.5		
7	CON	SN	COP Public Services	Big Belly Solar Bus Stop Compactor Deployment	\$50,628	16.7	30.6	10.9	25.9	0.25	83.85		
9	CON	WS	Learning Works	Renovation of Historic 181 Bracket Phase 2	\$121,900	16.5	28.9	11.1	26.3	0	82.8		
8	CON	SN	COP Public Services	Tree Planting	\$15,000	17.4	31.3	8.1	25.7	1	81.5		
2	CON	MA	COP Public Services	Curb Ramps	\$50,000	17.4	30.5	7.8	25.3	0	81		
10	CON	WS	Catherine Morrill Day Nursery	CMDN Frontage Restoration Project	\$78,942	15.8	28.0	11.1	25.5	0.5	79.9		
6	CON	MA/ SN	COP Recreation & Facilities	Cliff Island School Playgrounds	\$52,700	15.8	27.6	11.3	24.7	0	79.4		
11	CON	HS	Cathedral of St Luke	The Deanery	\$243,352	17.6	27.8	13.6	21.2	1	79.2		
13	DA	HS	Machigonne Comm Land Trust	Luther Street Home	\$65,000	14.8	25.9	13.2	23.4	0	77.3		

Total Development & Econ Dev. Requests \$1,699,418
Total Development & Econ Dev. Available \$460,681

Total \$460,681 \$0 \$0

1b CDBG AC Recomm

Type	Priority	Organization	Program/ Project	Request	Priority Impact/ 20 pts	Guiding Principles 35 pts	Partner/ Collabor 15 pts	Capacity to Deliver 30 pts	Penalty	Total	Committee Recomm	City Manager	Council Allocation
17	SET	SN	Police Department	Community Policing	\$150,000						\$150,000		
22	SS	BN	Preble Street	Food Programs	\$50,000	19.9	33.8	14.3	27.8		95.8	\$50,000	
27	SS	SN	Wayside Food Programs	Direct Service Programs	\$25,424	19.4	33.5	14.4	28.2		95.5	\$25,424	
20	SS	BN	Preble Street	Resource Center	\$45,000	19.5	33.6	14.1	27.8		95	\$45,000	
25	SS	SN	Amistad Inc.	Amistad Peer Support and Recovery Center	\$30,000	19.2	33.2	13.8	28.2		94.4	\$30,000	
21	SS	BN	Preble Street	Florence House Women's Shelter	\$30,000	19.4	33.2	14.1	27.6		94.3	\$30,000	
23	SS	BN	Preble Street	Joe Kreisler Teen Shelter	\$30,000	19.4	32.7	14.4	27.8		94.3	\$30,000	
28	SS	SN	Milestone	Homeless Outreach & Mobile Engagement HOME Team	\$75,000	18.9	33	14.2	27		93.1	\$75,000	
26	SS	SN	Portland Comm Health Center	Integrated Behavioral Health Program 63 Preble	\$125,000	19.4	33.4	11.4	28	0.25	91.95	\$89,846	
32	SS	WS	The Opportunity Alliance	Parkside Neighborhood Center	\$55,000	18.7	31.6	13.9	27.7		91.9		
24	SS	BN	Amistad Inc.	Amistad Peer Coaching Initiative	\$25,000	19.2	32.4	13	27.1	0.25	91.45		
30	SS	WS	Catherine Morrill Day Nursery	CDBG Child Care Assistance Program	\$99,402	17.9	31.1	14.6	27.4		91		
19	SS	BN	Frannie Peabody Center	Integrated Access to Care	\$40,000	17.5	30.9	13.8	26.9		89.1		
31	SS	WS	Learning Works	English Language Program	\$35,000	17.6	29.8	13.4	26.9	0.25	87.45		
18	SS	BN	The Locker Project	Feeding the Future	\$20,000	18.5	31.3	11.9	24.7		86.4		
29	SS	WS	Community Financial Literacy	Financial Education for Refugees and Immigrants	\$35,000	15.7	29	14.1	24.9	0.25	83.45		

Total Social Services \$869,826
Total Social Services Available \$525,270

ALL CDBG REQUESTS TOTAL \$2,974,971

Total \$525,270 \$0 \$0


 Portland, Maine

Yes. Life's good here.

Planning & Urban Development Department

March 2, 2015

Sheila Hill-Christian, Acting City Manager
 City Hall
 389 Congress Street
 Portland, Maine 04101

Dear Ms. Hill-Christian,

We are pleased to submit this year's recommendations for the Employment Development Program, a set side within the Community Development Block Grant Program at the City of Portland.

The goal of the Employment Development Program is to *fund projects that create employment opportunities that move Portland residents out of poverty into sustained employment and financial stability.*

The Program Objectives are twofold:

1. Create employment opportunities through:
 - a. Job Creation by investing in businesses with Portland locations to create net new jobs
 - *Net new jobs are jobs that did not previously exist.*
 - Jobs must be permanent full time equivalents (at least 1750 hours per year).
 - 66% of jobs must be filled with low to moderate income (LMI) Portland residents, defined as earning 80% of area median income.
 - The cost per job cannot exceed \$15,000.
 - b. Assistance to persons developing a Microenterprise Business
 - A Microenterprise Business is defined as a commercial enterprise that has five or fewer employees, one or more of whom owns the enterprise.
 - 100% of the businesses are owned by low to moderate income (LMI) Portland residents, defined as earning 80% of area median income.
 - The cost of the microenterprise cannot exceed \$15,000.
2. Provide support services for potential workers or persons developing a microenterprise to improve professional capacity, financial stability and/or ability to gain or maintain employment/business. Target populations for the program are: new Americans, people experiencing homelessness and single parent head of households.

The City released a request for proposal in 2014 and solicited a Lead Agency with which to partner to execute the Program and expend the allocation of funds. The Lead Agency could request one or two years of funding, with the second year being dependent on performance and HUD funding. There was \$400,000 available the first year for both the Job Creation and Microenterprise Assistance applications (\$300,000 in Development and \$100,000 in Social Services).


 Portland, Maine

Yes. Life's good here.

Planning & Urban Development Department

The original application was evaluated based on creativity, efficient utilization of resources, feasibility to meet City and HUD requirements, and relevant experience working with target populations, executing similar programs, collecting data and working with partners.

In 2014 the Council awarded \$340,000 to Coastal Enterprises, Inc. for job creation through the Portland Jobs Alliance (including \$240,000 in job creation funds and \$100,000 in supportive services funds) and \$60,000 for microenterprise assistance through the Portland Microenterprise Assistance Program.

PROJECT DESCRIPTION, UPDATE and PROJECTIONS

Both the Portland Jobs Alliance and the Portland Microenterprise Assistance Program requested two years of funding, which was contingent on HUD Allocation and performance. This year the CDBG program received a 1.3% reduction nationally. Both programs are on target for first quarter goals.

Due to contract negotiation between the City, HUD and CEI, the Portland Jobs Alliance contract was not signed until September 1, 2014. The Portland Microenterprise Assistance Program began July 1, 2014.

A description of both programs, including a short update and projections for the upcoming year, is below. A complete copy of the Project Update and Second Year Funding Request for the Portland Jobs Alliance and the Portland Microenterprise Assistance Program is available upon request.

Portland Jobs Alliance

The Portland Jobs Alliance (PJA) is utilizing City of Portland Community Development Block Grant (CDBG) funds and additional resources from a Maine-based foundation to build a collaborative and coordinated approach to providing employment services that promote access and success for low/moderate income job seekers. CEI and its partners, Catholic Charities Maine, City of Portland Refugee Services, Portland Adult Education, Preble Street, Community Financial Literacy, and other supporting partners, seek to improve coordination and employment outcomes for homeless individuals, New Mainers and single parents by addressing some of the employment challenges these populations experience. The initiative focuses on business engagement, job readiness and sector specific training, linking learning to work through internship work experiences, job retention support, and helping to initiate conversations of workforce diversity.

The project will serve 100 potential workers to more effectively prepare them to meet the growing needs of Portland's new and expanding businesses. Twenty-five (25) individuals from the initiative will be placed in newly created positions in Portland. It is anticipated that many of the remaining 75 enrollees will also secure employment in other jobs in the greater Portland region. The project will take a collaborative approach to job referral & placement, utilizing a web-based interagency database to communicate information about jobs seekers & job opportunities, and to track participant activity.

The project is on target for meeting 1st quarter goals. Enrollments and training are on target and most of the newly created jobs have been identified, though most will not be created until spring 2015.

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

For the upcoming program year, the Portland Jobs Alliance plans to provide services to:

- Address employment readiness, job placement and retention for target populations;
- Approach businesses to market the benefits of the PJA;
- Identify new job creation and other internship and placement opportunities;
- Secure additional job creation agreements;
- Target industry growth opportunities for more effective placement of highly skilled New Mainers;
- Continue to engage the hotel sector as a priority sector
- Identify new sectors to engage in PJA;
- Develop more one-day Employability Workshops, Advanced Interviewing, and Contextualized ESOL classes utilizing matching funds, including a series for homeless participants; and
- Provide business outreach training for case managers.

Portland Microenterprise Assistance Program (PMAP)

CEI and its partner, Cultivating Community, have provided targeted microenterprise assistance to help aspiring entrepreneurs build their capacity to achieve economic self-sufficiency. The grant is supporting the Portland Microenterprise Assistance Program (PMAP), which provides intensive targeted capacity-building for individuals interested in starting a small business by drawing on CEI's existing internal infrastructure. Within the overall microenterprise population, PMAP will target low to moderate income New Americans and women living and doing business in Portland.

The PMAP is a function of CEI's Business Development Services department, which operates state-wide. PMAP will be carried out by the Portland-based business counselors. These staff are organized within two programs and offer their services based on the needs of the targeted population: the Women's Business Center (WBC), which delivers targeted services for aspiring and existing women business owners; and StartSmart, which is a microenterprise program for refugees and immigrants (new Americans). Cultivating Community's New American Sustainable Agriculture Project (NASAP) helps very low-income refugee and immigrant families build sustainable, green businesses in food and farming. NASAP has provided training, on-farm workshops and mentoring, one-on-one production and business consultation, and access to agricultural infrastructure, as well as to local and regional markets, to recently resettled refugee and immigrant farmers.

In the first two quarters PMAP has worked with 34 low to moderate income clients who live in Portland. The business counselors often work with clients over many quarters, and often over years, to help the client reach their goal, so the number of clients worked with will grow but is not likely to double in the next 6 months. The program has helped clients start four businesses, on target for the goal of seven for the year. It will meet the business creation goal by the end of 12 months.

For the upcoming program year, The Portland Microenterprise Assistance Program will work with Low to moderate income Portland residents to help them start a business. The current client list and steady pipeline of new clients will enable to program to help seven clients start a business in Portland.

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

RECOMMENDATION

This committee received the Project Updates and Second Year Funding Requests from the Portland Jobs Alliance and Portland Microenterprise Assistance Program on January 30, 2014. The review meeting was held on February 6 at 11:00 am. Members discussed the applications. Through the conversation, several clarifying questions were identified and asked of the applicants. Both CEI programs were thorough and prompt in their responses. Once the answers were shared, committee members submitted their scores and recommendations regarding funding.

The Job Creation proposal: Portland Jobs Alliance received 84.2 points out of 100 points (84.2%) and is being recommended for \$340,000 for 2015-2016.

The Microenterprise Assistance proposal: Portland Microenterprise Assistance Program received 63 out of 75 points (84.8%) and is being recommended for \$60,000 for 2015-2016.

The score card summary is attached.

SUMMARY

We thank the Council for taking the steps to create the Employment Development Program. It is a program still in its infancy and it is still too soon to determine success. However this committee feels strongly that it is important to continue the commitment to the two CEI programs that are currently funded and to provide them the second year funding as requested in order to give them the opportunity to succeed. Diverting funding from this program at this time would undermine the community wide initiative that has taken root, and could severely limit any success in the current program year and into the future. Therefore the committee asks that the City Manager and the Council support the recommendations in this letter to continue to fund the Portland Jobs Alliance and the Portland Microenterprise Assistance Program.

We are grateful for this opportunity and look forward to your response.

Sincerely,

The Employment Development Review Committee Program Year 2015-2016

Maxwell Chikuta, CDBG Allocation Committee Member

Dan Coyne, Sr. Vice President of Community Impact, United Way of Greater Portland

Julie Sullivan, Acting Chief of Staff, City of Portland

Jack Lufkin, VP Regional Senior Bank Officer, Gorham Savings Bank

Nicole Witherbee, Chief Program Officer, John T. Gorman Foundation

Attachments: Employment Development Review Committee Score Card

CDBG Employment Development Program Score Card

CEI Job Creation Program: Portland Jobs Alliance								\$340,000.00	
Selection Criteria	MAX	Scorer 1	Scorer 2	Scorer 3	Scorer 4	Scorer 5	Total	Average	Percent
Performance 2014-2015									
Recruiting and solidifying partnerships with businesses to create jobs	15	14	13	13	13	10	63	12.60	84.0%
Recruiting and assessing potential workers	15	14	13	13	15	10	65	13.00	86.7%
Providing services to potential workers to gain or maintain employment	10	10	8	8	9	7	42	8.40	84.0%
Having a system in place to match potential workers with jobs created by business partners	10	9	8	8	10	7	42	8.40	84.0%
Collecting and reporting project statistics and progress	15	15	13	10	14	8	60	12.00	80.0%
Efficient utilization of resources	15	11	12	15	14	10	62	12.40	82.7%
Projections 2015-2016									
Feasibility of CEI and partners to meet all project goals and objectives, including schedule and city/HUD reporting requirements	20	18	17	18	19	15	87	17.40	87.0%
TOTAL	100	91	84	85	84	67	421	84.20	84.2%
Recommended Funding Amount	\$340,000	\$340,000	\$340,000	\$340,000	\$340,000	\$340,000	\$1,700,000	\$340,000	100.0%

CEI Portland Microenterprise Assistance Program								\$60,000.00	
Selection Criteria	MAX	Scorer 1	Scorer 2	Scorer 3	Scorer 4	Scorer 5	Total	Average	Percent
Performance 2014-2015									
Recruiting and assessing persons developing a microenterprise	15	14	13	12	13	12	64	12.80	85.3%
Providing services to persons developing a microenterprise	10	8	13	9	9	7	46	9.20	92.0%
Collecting and reporting project statistics and progress	15	15	13	10	14	10	62	12.40	82.7%
Efficient utilization of resources	15	9	11	15	14	10	59	11.80	78.7%
Projections 2015-2016									
Efficient Utilization of Resources	20	19	16	17	19	16	87	17.40	87.0%
TOTAL	75	65	65	63	69	55	318	53.60	84.8%
Recommended Funding Amount	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$60,000	\$300,000	\$60,000	100.0%

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Planning and Urban Development Department
Housing and Community Development Division

DATE: March 24, 2015

DISTRIBUTION: Sheila Hill-Christian, Acting City Manager, Michael Brennan, Mayor,
Danielle West-Chuhta, Corporation Counsel, Sonia Bean, Nancy English,
Julie Sullivan

SUBJECT: Resolution Adopting the FY 2015-2020 HUD 5-Year Consolidated Plan and
the FY2015-2016 Annual Action Plan and Appropriations

SPONSOR: City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:
1st reading April 6 Final Action May 4

Can action be taken at a later date: ____ Yes X No (If no why not?)

The Division is required to submit the 5-Year HUD Consolidated Plan and the FY 15/16 Annual Action Plan to HUD no later than May 15.

PRESENTATION: Mary Davis will be available for comments and questions

I. SUMMARY OF ISSUE (Agenda Description)

Council approval of the 2015-2016 Housing Program Budget is required. The budget was submitted to the Housing and Community Committee for recommendation at their March 11^h meeting. The HCDC voted 3-0 to forward this item to the City Council with a recommendation for passage.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

Council approval of the Housing Program Budget is required.

III. INTENDED RESULT

HOME Program: The Home Investments Partnerships Program (HOME) was established by Congress in 1992. Since 1992, the City of Portland and the Cumberland County HOME Consortium have received over \$16.3 million dollars in HOME funding. In 2009 the City

became the lead entity in the Cumberland County HOME Consortium. The Consortium is a partnership of the communities in Cumberland County that administers HOME Program funds in Cumberland County. The creation of the consortium expanded the financial resources for affordable housing activities in the region. The City retains independent operation of its HOME program. Because the City serves as the "Lead Entity" and City staff administers the County portion of the funding, all administrative funds are retained by the City. The County's Municipal Oversight Committee controls the allocation of County's portion of the HOME funds.

The budget proposal is based on a final HUD HOME allocation of \$820,832, of which \$347,236 is reserved for County project. The budget proposal was developed after a historical review of funding allocations, previous year's budget allocations, program expenditures and program income (loan repayments) received.

Currently, the City's HOME Program is divided into four funding categories:

1. Administration
2. Housing Rehabilitation
3. Tenant Based Rental Assistance
4. Affordable Housing Development [including the required Community Housing Development Organization (CHDO) set-aside mandated by HUD]

CDBG/Housing Development Fund: Housing and Community Development Division did not request funding from the FY 14/15 CDBG process. Staff and housing program costs normally funded through CDBG, are being funded through the Housing Development Fund (HDF). HDF is the program income account funded by CDBG housing loan repayments.

IV. COUNCIL GOAL ADDRESSED

Promote Housing Availability: Provide increased availability in all segments of the housing market while insuring that there is a suitable balance of housing opportunities among those sectors.

V. FINANCIAL IMPACT

This budget is based on the CDBG and HOME Program Allocations from the U.S. Department of Housing and Urban Development, the City's Housing Trust Fund and housing program income accounts for CDBG and Lead Safe Housing.

VI. STAFF ANALYSIS

Staff recommends the funding levels presented here. These budget lines can be adjusted as necessary throughout the year with appropriate analysis and public notice as required by our Consolidated Annual Action Plan. This budget is presented for two Public Hearings (1) at the Housing and Community Development Committee meeting on April 22nd at 5:30 p.m. and at a Special Meeting of the City Council on May 4th City Council at 5:00 p.m. as part of the overall

HCD budget. The final budget allocations and Annual Action Plan are submitted to HUD on May 15 for the fiscal year beginning July 1, 2015.

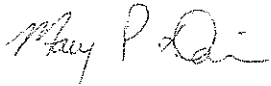
VII. RECOMMENDATION

Staff recommends approval of the attached 2015-2016 Housing Program Budget.

VIII. LIST ATTACHMENTS

2015-2016 Housing Program Budget

Prepared by:



Signature
Mary Davis, Division Director
Housing and Community Development

March 24, 2015
Date

2015-2016 HOUSING PROGRAM BUDGET HUD Final Allocation February 10, 2015

Total HUD HOME Entitlement Allocation 820,832
 Portland Portion 473,597
 County Portion 347,236

Recommended by HCDC March 11, 2015
 Approved by Council xxxxxx, 2015

REVENUES- Housing Programs

	HOME	CDBG	HDF	LEAD Safe Housing	Housing Trust Fund	TOTAL BUDGET
2015-16 HOME Consortium Admin (10% of allocation)	82,083					82,083
2015-16 HOME Consortium Programming	391,513					391,513
2014-15 HOME Program Income	200,000					200,000
Re-Allocated HOME Funds (funding from previous years)						0
2015-16 CDBG Administration						0
2015-16 CDBG Programming						0
2015-2016 Housing Trust Fund					643,551	643,551
2014-15 HDF Program Income			265,446			265,446
2014-15 Lead Safe Housing Program Income				280,413		280,413
REVENUE TOTALS (Portland)	673,597	0	265,446	280,413	643,551	1,863,007

EXPENDITURES SUMMARY= Housing Programs

	HOME	CDBG	HDF	LEAD Safe Housing	Housing Trust Fund	TOTAL BUDGET
Administration						121,943
HOME Admin Allocation (2015-16)	82,083					
HDF/CDBG Housing Staff (2015-16)			39,860			
Programming						1,741,063
HOME Consortium (2015-16)	391,513					
HOME Program Income (2014-15)	200,000					
Re-Allocated HOME Funds						
CDBG Programming (2015-16)						
Housing Trust Fund (2015-16)					643,551	
HDF Program Income (2014-15)			225,586			
LEAD SAFE HOUSING Program Income (2014-15)				280,413		
EXPENDITURES SUMMARY TOTALS (Portland)	673,597	0	265,446	280,413	643,551	1,863,007

2015-16 HOUSING Budget by Activity (Portland)

	HOME	CDBG	HDF	LEAD Safe Housing	Housing Trust Fund	TOTAL BUDGET
Administration (10% allocation + 10% PI) PL1601/QS1601	102,083		39,860			141,943
Housing Rehabilitation (27 Units @ \$15,000/unit) QM1600/QB1600	150,000		225,586			375,586
Homeownership Assistance QJ1600	0					0
Tenant-Based Rental Assistance QT1601	130,000					130,000
Affordable Housing Development QK1600/IN1114	226,262				643,551	869,813
CHDO QL1600	65,252					65,252
Lead Safe Housing PLL036	0			280,413		280,413
	673,597	0	265,446	280,413	643,551	1,863,007

2015-16 HOME Consortium COUNTY - approved by MOC on 03.24.2015

County HOME Program budget provided for reference only;

Allocation of County funds is done by the County's Municipal Oversight Committee

	HOME Consortium
2015-16 HOME Consortium Non-Portland Programming	347,236
2014-15 HOME County Program Income	10,000
	357,236

2015-16 HOUSING Budget by Activity

	HOME County
Housing Rehabilitation (15 projects @ \$15,000/project) QP1600	235,000
Home Ownership QQ1600	
Affordable Housing Development	64,363
CHDO QR1600	57,873
	357,236

Emergency Solutions Grant 2012-2015

Program	ESG Budgeted Funding Amount by Fiscal Year			
	FY 12-13	FY 13-14	FY 14-15	FY 15-16
Operations: Homeless Health	\$37,582	\$28,993	\$35,391	\$0
Essential Services: Family Shelter	\$28,327	\$21,853	\$26,675	\$28,327
Homeless Prevention: Family Shelter	\$28,326	\$21,853	\$26,675	\$52,369
Homeless Prevention: Oxford Street	\$12,242	\$8,972	\$10,952	\$13,800
Rapid Rehousing: Oxford Street	\$48,966	\$35,888	\$43,807	\$55,200
Administratation and HMIS	\$12,603	\$5,600	\$6,838	\$12,138
<i>Total (Actual)</i>	<i>\$168,046</i>	<i>\$123,159</i>	<i>\$150,338</i>	<i>\$161,834</i>
<i>Admin/HMIS cap</i>	<i>\$12,603</i>	<i>\$9,237</i>	<i>\$11,275</i>	<i>\$12,138</i>

Explanation

Operations: Homeless Health	This program is no longer administered by the City of
Essential Services: Family Shelter	Funds pay for staff who provides housing assistance by seeking affordable units, applying for eligible subsidies and accessing transitional housing opportunities and follow-up case management services by assisting with budgets, tenant/ landlord negotiations, and connecting to area resources.
Homeless Prevention: Family Shelter	Funds pay for staff who assist in preventing family homelessness. Services include advocating with their town of residency, landlord/tenant negotiations and family reunifications.
Homeless Prevention: Oxford Street Shelter	Funds pay for staff who assist in preventing individuals from becoming homeless and providing necessary case management and referrals.
Rapid Rehousing: Oxford Street Shelter	Funds pay for staff who assist persons who have become homeless by quickly moving them into permanent hosuing and providing the necessary case management and referrals the individual needs.
Administration and HMIS	Funding goes to pay for licenses to use HUD's Homeless Management and Information System. Licenses are provided by Maine Housing.

*Order 302-14/15
Tab 24 4-6-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER RECEIVING AND REFERRING TO THE FINANCE COMMITTEE
THE PORTLAND BOARD OF PUBLIC EDUCATION'S
FY2016 BUDGET ESTIMATE
AND SETTING A PUBLIC HEARING THEREON**

ORDERED, that the Budget Estimate of the Portland Board of Public Education for Fiscal Year 2016 is hereby received and referred to the Finance Committee for review; and

BE IT FURTHER ORDERED, that the Public Hearing on the FY2016 School Budget will be on April 27, 2015, at 7:00 p.m. in the City Council Chambers, 389 Congress Street.

*Com 14-14/15
50625 4-6-15*

TO: City Council

FROM: Ian Houseal, Assistant to the City Manager, Sustainability Coordinator

DATE: April 6, 2015

DISTRIBUTION: Sheila Hill-Christian, Michael Brennan, Danielle West-Chuhta, Sonia Bean, Nancy English

SUBJECT: Environmental Performance Report - 2014

SPONSOR: David Marshall, Chair, Transportation, Sustainability, and Energy Committee

I. SUMMARY OF ISSUE

According to the City's Environmental Performance Policy, adopted by the City Manager as an Administrative Policy of the City, and recommended by the City Council, the administration is responsible for tracking and reporting annually on the following metrics:

- Building fuel use;
- Electricity use;
- Vehicle fuel use;
- Solid waste generation; and
- Office paper (8.5 x 11) purchasing.

The 2014 Fiscal Year (FY) beginning in July 2013 and ending in June 2014 represents the second year that these metrics have been compiled into a single report. Fiscal Year 2013 represents the first year that office paper purchasing has ever been tracked. Electricity and other fuels have been tracked for a number of years and have informed energy efficiency and conservation benchmarking and the budget process for utilities year-after-year. Solid waste generation from city facilities was not tracked due to lack of data collection. Future year reports should contain solid waste generation.

In 2014, approximately 31,859,984 kwh (kilowatt hours) of electricity, 162,628 gallons of heating fuel oil, 1,036,618 therms of natural gas for heating, 385,518 gallons of gasoline and diesel fuel, 50,780 gallons of Compressed Natural Gas (CNG) and 12,205,000 sheets of 8.5 x 11 office paper are being reported. Solid waste generated by city facilities is unknown at this time.

The Greenhouse Gas (GHG) emissions from this usage is approximately 3,661 metric Tons of CO₂ equivalent (e) units from vehicle fuel, 12,281 CO₂e from electricity, and 7,319 CO₂e from heating fuel. The total, approximate GHG emissions: 23,261 metric Tons of CO₂e.

The Transportation, Sustainability, and Energy Committee reviewed the Environmental Performance Report on February 18, 2015 and recommended to refer the Report to the City Council as a communication.

II. REASON FOR SUBMISSION

According to the Policy, the administration is responsible for tracking and reporting annually. The TSE Committee recommended communicating the Report to the City Council.

III. INTENDED RESULT

To report on the Environmental Performance of the City's operations and outline administrative action being pursued to make further energy cost and emissions reductions.

IV. COUNCIL GOAL ADDRESSED

n/a

V. FINANCIAL IMPACT

Tracking and reporting annually is saving the City money and resources.

VI. STAFF ANALYSIS

See attached report

VII. RECOMMENDATION

No action required

VII. LIST ATTACHMENTS

Environmental Performance Report - 2014

Environmental Performance Report



City of Portland, Maine

July 2013 – June 2014

BACKGROUND

According to the Environmental Performance Policy, adopted by the City Manager as an Administrative Policy of the City, recommended by the City Council, the administration is responsible for tracking and reporting annually on the following metrics:

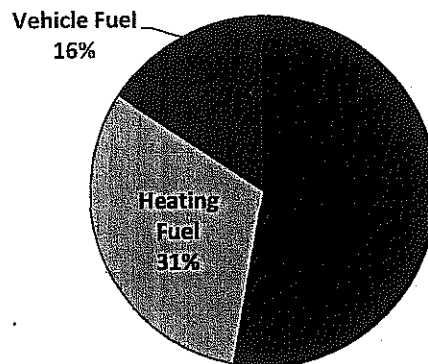
- Building fuel use;
- Electricity use;
- Vehicle fuel use;
- Solid waste generation; and
- Office paper (8.5 x 11) purchasing.

The above metrics represent a part of the City's performance in corporate sustainability. These metrics are presented either in the units of the metric itself, calculated cost, or calculated greenhouse gas emissions. The data presented in this report does not consider operational ownership. If the data is available it is reported disregarding operational control.

The 2014 Fiscal Year (FY) beginning in July 2013 and ending in June 2014 represents the second year that these metrics have been compiled into a single report. Fiscal Year 2013 represents the first year that office paper purchasing has ever been tracked. Electricity and other fuels have been tracked for a number of years and have informed energy efficiency and conservation benchmarking and the budget process for utilities year-after-year. Solid waste generation from city facilities was not tracked due to lack of data collection. Future year reports should contain solid waste generation.

Of note with regard to this report is that between May 2011 (FY 2011) and June 2012 (FY 2012) the City was under contract with an Energy Performance Company to construct energy improvements throughout City and School buildings that have resulted in electricity and fuel savings.

GHG Emissions Source



SUMMARY

In 2014, approximately 31,859,984 kwh (kilowatt hours) of electricity, 162,628 gallons of heating fuel oil, 1,036,618 therms of natural gas for heating, 385,518 gallons of gasoline and

diesel fuel, 50,780 gallons of Compressed Natural Gas (CNG) and 12,205,000 sheets of 8.5 x 11 office paper are being reported. Solid waste generated by city facilities is unknown at this time.

The Greenhouse Gas (GHG) emissions from this usage is approximately 3,661 metric Tons of CO₂ equivalent (e) units from vehicle fuel, 12,281 CO₂e from electricity, and 7,319 CO₂e from heating fuel. The total, approximate GHG emissions: 23,261 metric Tons of CO₂e.¹

Performance Metrics	2013	2014
Electricity	29,3,868 kwh	31,859,984 kwh
Heating Fuels	134,462,969 kBTU	126,267,092 kBTU
Heating Fuel Oil	142,393 gallons	162,628 gallons
Natural Gas	1,136,006 therms	1,036,618 therms
Vehicle Fuel		
Gasoline and Diesel	394,618 gallons	385,581 gallons
Compressed Natural Gas	30,384 gallons	50,780 gallons
Office Paper (8.5 x 11)	10,859,500 sheets of paper	12,205,000 sheets of paper
GHG Emissions	23,260 Tons CO ₂ e	23,261 Tons CO ₂ e
Electricity	11,093 Tons CO ₂ e	12,281 Tons CO ₂ e
Heating Fuel	7,657 Tons CO ₂ e	7,319 Tons CO ₂ e
Vehicle Fuel	3,492 Tons CO ₂ e	3,661 Tons CO ₂ e

COMMENTS

- Due to a cold winter, pipeline constraints, and local pipe issues, gas was sometimes unavailable. As a result, gas usage was down and heating fuel usage was up.
- Overall, building heating energy usage was down due to efficient system performance and user conservation.
- Electricity usage is up overall; however, the increase is from the Jetport expansion. Electricity usage has decreased elsewhere.
- Switching to natural has saved money (38% reduction) and improved GHG emissions (16% reduction).
- Energy efficiency has saved energy and saved money.
- Competitive energy supply procurement is saving money.
- Office paper purchasing has increased since 2013 by approximately 1 million sheets of paper. Anecdotal evidence suggests that some Departments have noticed a drastic decrease in paper usage over the past couple of years due to two-side printing options and using the internet for document sharing. It is unclear as to why paper usage is up.
- The School Department has expanded its use of CNG vehicles.
- Vehicle fuel efficiency has improved and usage has decreased even during a cold and snowy winter.

¹ Total energy composition includes General Fund, Enterprise Funds, and non-City sources available for reporting.

HEATING FUEL PERFORMANCE

For comparison purposes, FY 2010 was compared to 2013 and 2014. Both 2010 and 2013 share a similar number of heating degree days (HDD): 2010 had 6,315 and 2013 had 6,573. FY 2014 had 7,440 HDD, which was abnormally high compared to at least the last seven years. FY 2010 and 2013 also correspond with pre and post construction of the energy efficiency improvements in 2011 and 2012. Through the energy efficiency improvements the City switched from primarily heating fuel oil to natural gas as the primary heating source for many of the City's buildings. Between 2010 and 2013 the total British Thermal Units in thousands (kBTU) needed to heat buildings increased, but resulted in lower GHG emissions and lower cost as can be seen in the table below. GHG emissions dropped approximately 14% since 2010 and total costs dropped approximately 38% between those dates.

For the buildings where energy improvements were made per the energy performance contract, there was a drop of 7% in energy use (kBTU), a 30% decrease in cost, and a 16% decrease in GHG emissions. The relatively small decrease in energy use is attributed to the added energy needed for natural gas to power boilers originally designed for higher energy content fuel oil and sometimes bunker oil. The cost savings attributed to these conversions were due to the difference in cost between the two fuel sources. The emissions reductions are due to the relative difference in emission caused by the two fuel source options.

Across the City's entire building portfolio, the heating building energy use intensity was 50 kBTU/sf/year. For comparison, the ASHRAE standard for new construction is 55 kBTU/sf/year and the average for office buildings in the US is 90 kBTU/sf/year.

Heating Fuel Performance			
	FY 2010	FY 2013	FY 2014
Heating Fuel (gallons)	720,258	142,393	162,628
Natural Gas (therms)	264,032	1,136,006	1,036,618
Energy Improvements	93,926,331	95,620,188	87,077,673
Public Buildings (kBTU)	38,377,689	32,702,973	29,780,672
School (kBTU)	55,548,641	62,917,215	57,297,001
GHG Emissions (CO ₂ e)	8,755	7,657	7,319
Estimated Cost (\$)²	2,684,080	1,939,585	1,876,144

² Assumes a normalized \$1.30 per therm and \$3.25 per gallon rate

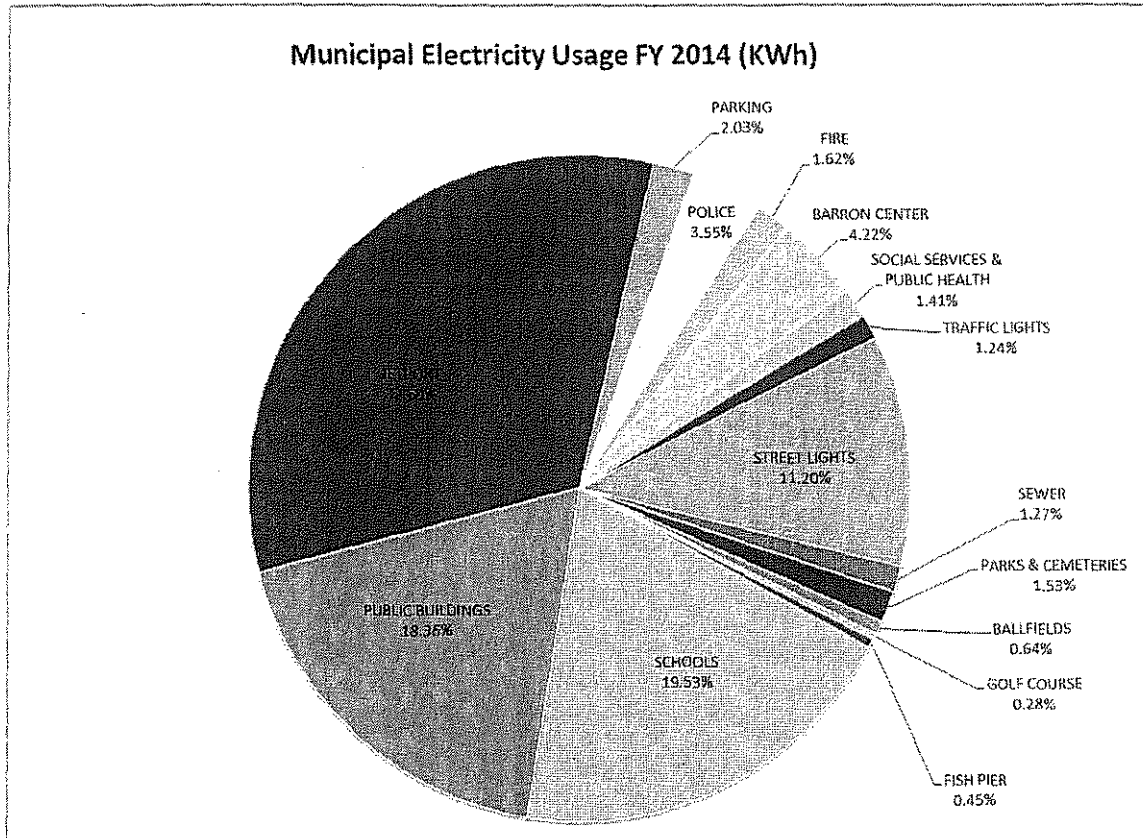
ELECTRICITY PERFORMANCE

For comparison purposes, FY 2010 was compared to 2013 and 2014. FY 2010 and 2013 correspond with pre- and post-construction of the energy efficiency improvements in 2011 and 2012. Total electricity use increased due to construction of the new Jetport Terminal; however, excluding the Jetport, electricity use has decreased. With the major exception of the Portland Ocean Terminal electricity use is generally trending downward and in any divisions where there is an increase is attributable to increased service. The downward trend in electricity use has also coincided with a large drop in electricity supply costs.

For the buildings where energy improvements were made per the energy performance contract, there was a drop of 8% in electricity usage for public buildings and a 2% drop in electricity usage for school buildings. Electricity energy improvements were primarily lighting improvements such as lamp replacements and motion sensor light switches.

Electricity Performance			
Kilowatt Hours (kwh)	FY 2010	FY 2013	FY 2014
Jetport	3,631,834	7,682,587	10,413,608
Traffic Lights	434,428	395,886	393,730
Streetlights	3,566,659	3,692,767	3,566,859
Sewer	374,356	393,891	405,989
Parks and Cemeteries	550,110	517,925	488,915
Ballfields	201,410	200,354	203,494
Golf Course	155,148	117,739	88,832
Fish Pier	128,600	125,000	143,500
Schools	6,586,048	6,320,171	6,221,431
Public Buildings	5,599,930	5,430,040	5,849,152
Parking	654,700	608,402	645,961
Police	1,223,200	1,130,080	1,131,160
Fire	497,133	490,043	514,692
Barron Center	1,398,657	1,384,791	1,344,688
Social Services and Public Health	472,254	481,140	447,973
Total (kwh)	25,474,467	29,318,868	31,859,984
less Jetport (kwh)	21,842,633	21,636,281	21,446,376

Energy Improvements	13,318,163	12,472,664	12,642,381
Public Buildings	7,100,224	6,362,165	6,561,962
Schools	6,217,939	6,110,499	6,080,419
Total Emissions (CO₂e)	9,820	11,093	12,281
Estimated Cost (\$)³	3,566,425	4,104,641	4,460,398
less Jetport (\$)	3,057,969	3,029,079	3,002,492



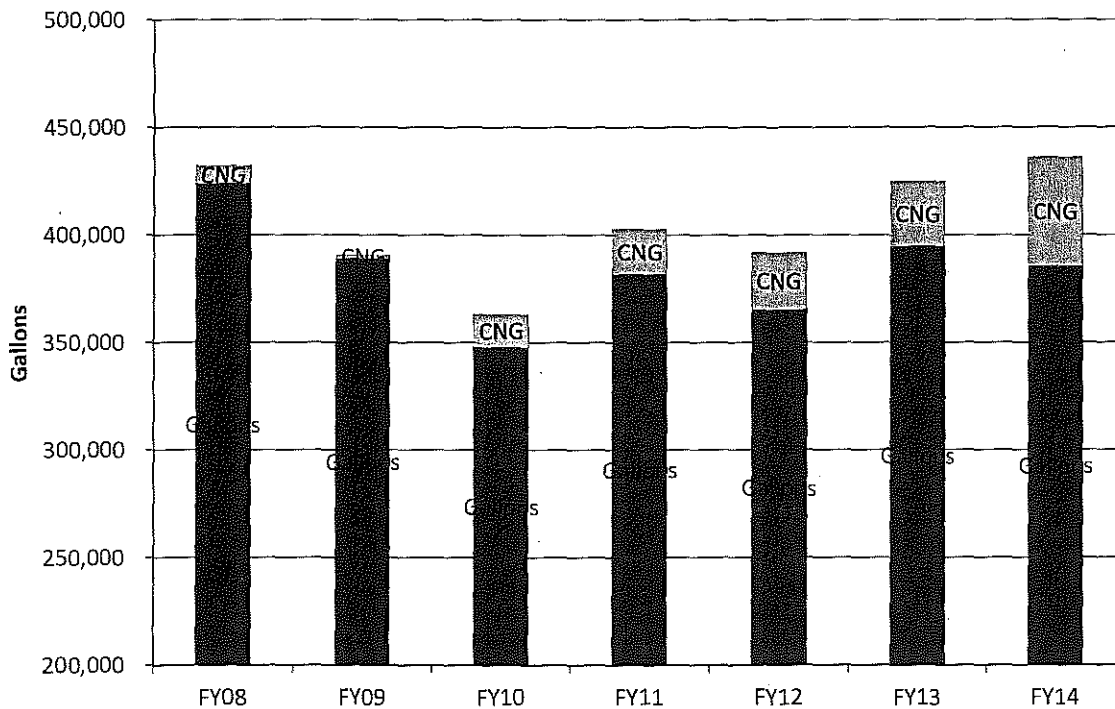
³ Assumes a normalized \$0.14/kw rate.

VEHICLE FUEL PERFORMANCE

Vehicle fuel use has decreased from approximately 424,000 gallons of gasoline and diesel fuel in FY 2008 to 385,600 gallons in FY 2014. Additionally, the School Department increased its use of CNG from approximately 8,500 gallons of CNG in FY 2008 to 50,800 gallons of CNG in FY 2014. The price of CNG is approximately half the cost gasoline or diesel.

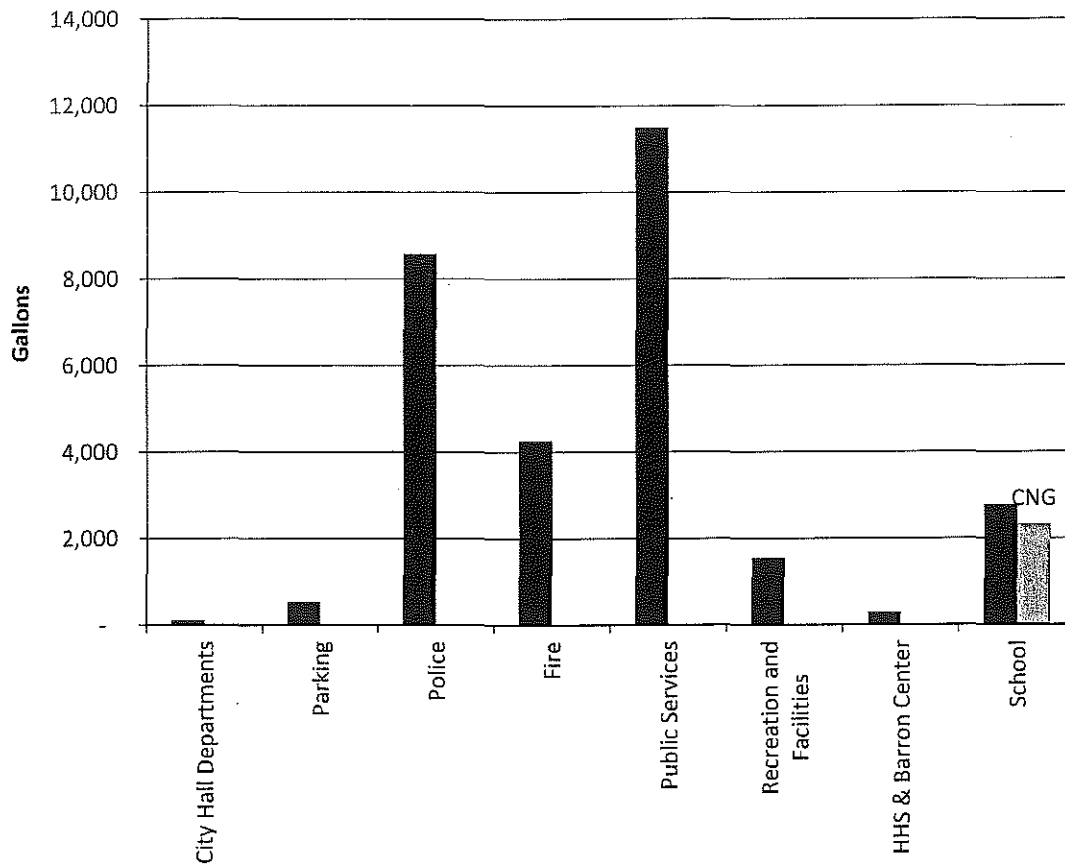
Fuel volumes vary depending on the services delivered as well as seasonal variations and annual variations in weather. No information is available for vendor fuel use. No attempt has been made to normalize fuel usage due to services delivered or weather.

Vehicle Fuel Use FY 08 to FY 14



The average monthly, non-winter departmental fuel use is as follows. The Public Services Department uses the most fuel, the Police Department second, and Fire Department third.

Vehicle Fuel Non-winter Monthly Average



OFFICE PAPER PERFORMANCE

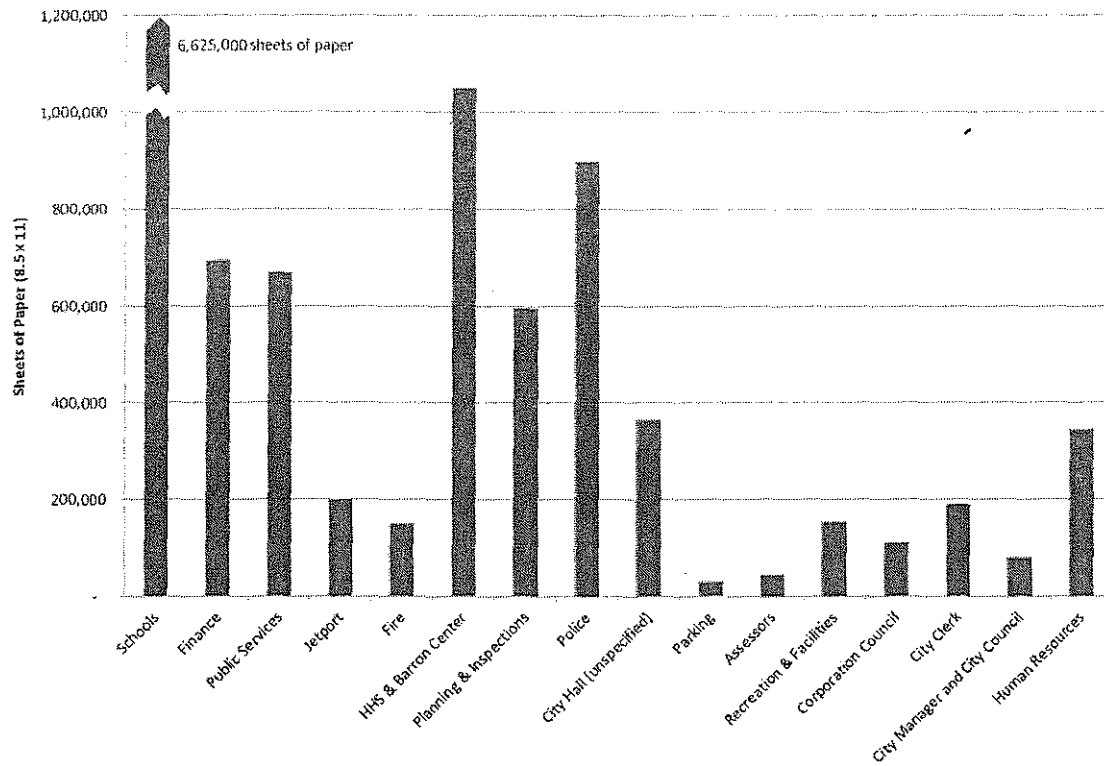
The City purchased approximately 12,205,000 sheets of office paper (8.5 x 11) in 2013. Greater than half of that paper purchase was by the School Department.

Paper purchases increased by 11% from FY 2013 to FY 2014.

Office Paper Performance			
Sheets of Paper	FY 2013	FY 2014	Increase/ (Decrease)
Schools	6,755,500	6,625,000	-2%
Finance	150,000	695,000	78%
Public Services	669,000	670,000	0%
Jetport	135,000	200,000	33%
Fire	180,000	150,000	-20%
HHS & Barron Center	880,000	1,050,000	16%
Planning & Inspections	221,500	595,000	63%
Police	810,000	900,000	10%
City Hall (unspecified)	500,500	365,000	-37%
Parking	50,000	30,000	-67%
Assessors	30,000	45,000	33%
Recreation & Facilities	140,000	155,000	10%
Corporation Counsel	90,000	110,000	18%
City Clerk	70,000	190,000	63%
City Manager and City Council	90,000	80,000	-13%
Human Resources	120,000	345,000	65%
Total	10,891,500	12,205,000	11%

The Jetport, Fire Department, Health and Human Services, Public Services, School Department, Planning and Inspections all used paper with greater than 30% recycled paper content for some paper purchased. All Departments used some paper that was Forest Stewardship Council (FSC) certified.

Office Paper (8.5 x 11) Purchasing, 2014



CONCLUSIONS & RECOMMENDATIONS

In making continued environmental performance the City will need to balance cost savings, GHG emissions reductions, environmental quality, and quality of life as it decides next steps to improve the environmental performance of City operations. The following is a brief discussion and recommended areas to prioritize to make real improvements balancing these factors.

Heating Fuel Performance

The City has made investments in heating performance over the past years and continued heating efficiency gains are possible in some locations, but large-scale investment in efficiency will see diminishing returns. Heating efficiency is part of the day-to-day operations of the City and will continue to be addressed on a case-by-case basis. Given the City facility's heating performance out performing some new construction projects, prioritizing heating efficiency efforts is not recommended over other priorities.

Priority #1 – Fuel Conversion

To maximize cost savings and GHG emissions reductions it is recommended to abandon heating fuel oil to the greatest degree possible, seeking to fully from heating fuel oil over the next one to five years. There is a real long-term cost savings associated with conversions away from heating fuel oil, as well as emissions reductions, operational benefits, system benefits, and environmental benefits such as oil tank removal and other air emissions factors.

Recommended buildings to target initially include:

1. Bramhall Fire Station (11,000 gallons annually)
2. All other Mainland Fire Substations (12,000 gallons annually)
3. Hall School (20,000 gallons annually)
4. School Central Office (unknown)
5. Public Services Lower Garage (26,000 gallons annually)
6. Traffic and Trades Building (7,000 gallons annually)
7. PATHS Greenhouse (8,000 gallons annually)

Initial total heating fuel oil reduction – 84,000 gallons annually

Vehicle Fuel Performance

Because of the nature of the City vehicle fleet, which is low mileage, low speed, high run-hours and heavy-duty vehicles such as dump trucks vehicle efficiency gains have been occurring, but will remain elusive. Technologies such as GPS vehicle tracking have merit, but have yet to be funded and will only see minor savings. Alternative fuel vehicles are the best options for cost savings, GHG emissions reductions, and environmental benefits. FY 2015 is the first year the

City has successfully funded a CNG vehicle for a rubbish packer. More investment in CNG vehicles in the heavy-duty vehicle fleet is needed. This is prioritized over new electric vehicle technology for the light-duty fleet because of cost of the equipment, limited savings to be had given the composition of the fleet, and conventional options for efficiency such as smaller police cruisers and added fuel mileage gains at a lower cost.

Priority #2 – CNG Vehicle Fleet Replacement

Invest in CNG vehicle replacement. Prioritize rubbish packers then dump truck size vehicles second.

Electricity Performance

The City has made investments in electricity efficiency over the past years and continued to make those improvements. Large-scale investment in efficiency will see diminished returns. Products such as LED lights are selected for lighting replacement projects on a regular basis.

Streetlights efficiency is not recommended as a priority. In general the City's streetlights are very efficient using the most efficient technology available. Converting to LED streetlights is a quality of life issue that may cost more than the current streetlight system in place.

Priority #3 – Large Solar Installation

To realize further reductions in GHG emissions from electricity, the City will need to source its electricity from renewable sources. The most viable option in the City for renewable power is solar photovoltaic. It is possible that a solar installation could save money, but the primary driver for such an investment would be GHG emissions reductions.

Application filed 3/7/14. New City and State applications. Establishment will have six pinball machines and six amusement devices. Former location of Slainte.

Five affirmative votes are required for passage after public comment.

**Order 195-13/14
(Tab 12)**

Order Granting Municipal Officers' Approval of Bonfire LLC d/b/a Bonfire Country Brew Works at 37-39 Wharf St. Application for a Class A Lounge License with Outdoor Dining on Public Property – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/7/14. New City and State applications.

Five affirmative votes are required for passage after public comment.

**Order 196-13/14
(Tab 13)**

Order Granting Municipal Officers' Approval of JBB Hospitality I, LL LLC d/b/a Courtyard Portland Downtown/Waterfront at 321 Commercial St. Application for a Class IA Hotel 40+ Rooms License with Outdoor Dining on Private Property – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/6/12. New City and State applications.

Five affirmative votes are required for passage after public comment.

**Order 197-13/14
(Tab 14)**

Order Granting Municipal Officers' Approval of Spree River LLC d/b/a Maps Café at 64A Market St. Application for a Class III & IV Wine & Beer License – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/10/14. New City and State applications. Former location of Carman's.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

**Order 198-13/14
(Tab 15)**

Order Receiving and Referring City Manager's Fiscal Year 2015 Municipal Budget to the Finance Committee and Setting Date of Public Hearing on FY 2015 Municipal Budget and FY 2015 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 10, 2014, 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 5, 2014, at 7:00 p.m. in City Council Chambers. A City Council workshop to discuss the municipal budget will be held on Monday, May 12th, at 5:30 p.m., in City Council Chambers.

Final City Council action on the municipal budget will take place at the City Council meeting on May 19, 2014, at 7:00 p.m.

**Order
(Tab)**

Order Approving State/Local EPS Funding Allocation for Public Education from Kindergarten to Grade 12 for Portland Schools for FY 2015 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

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

**Order
(Tab)**

Order Approving Non-State Funded School Construction Debt Service for Portland Schools for FY 2015 – Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair.

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

**Order
(Tab)**

Order Raising and Appropriating Additional Local Funds for Portland Schools for FY 2015 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

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

**Order
(Tab)**

Order Approving Total School Operating Budget for Portland Schools for FY 2015 – Sponsored by the Finance Committee, Nicholas M. Mavodones, Jr., Chair.

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

**Order
(Tab)**

Order Appropriating and Raising Funds for Adult Education for FY 2015 as Required by the Maine Revised Statutes, Title 20A M.R.S.A. §8603-A(1) – Sponsored by the Finance Committee, Nicholas M. Mavodones, Chair

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

Com 15-1415
Tab 26 4-6-15

Portland, Maine



Yes. Life's good here.

Executive Department
Sheila-Hill Christian, Acting City Manager

389 Congress Street / Portland, ME 04101 / www.portlandmaine.gov / tel. 207-874-8689 / tty. 207-874-8936 / fax. 207-874-8669

TO: City Council
FROM: Sheila Hill-Christian, Acting City Manager
RE: General Assistance Audit - Update on Follow-up Actions
DATE: April 6, 2015

As requested, I am providing an update on actions taken in response to the State's most recent audit of the City's General Assistance program. As I discussed in my budget presentation, the City is moving forward in responding to four of the five audit findings cited in the State's report. The fifth is the subject of pending litigation. Based on direction from the Public Safety, Health & Human Services and Finance Committees, staff is drafting a plan of correction to submit to the State. While the City has been found in compliance by the State for the past 30 years, including several times under the current administration, we recognize we need to make some changes in order to remain compliant moving forward.

To that end, we will be:

- (1) Completing full eligibility screens on all shelter consumers.
- (2) Requesting State reimbursement for shelter costs directly attributable to eligible individuals only and not for operating expenses.
- (3) Requiring shelter consumers who have income to use it toward shelter costs. This will require significant input from the State as most of the verifications are conducted by the State and on average take between 1-3 months, while the City is required to determine eligibility within 24 hours of application.

There are also other proposed responses under consideration by staff, which are on page 7 of the attached memo (which was provided to Council at the March 2 workshop).

**General Assistance**

Council Workshop - March 2, 2015

Overview

- Pending GA Lawsuit
- 2015 GA Audit – Legal Perspective
- 2015 GA Audit – Response to Alleged Violations
- Councilor Questions
- Short- and Long-Term Financial Impacts
- Plan of Action and Next Steps
- Attachments

While the City's administration of General Assistance has been found in compliance by the State for more than 20 years, the change in statute interpretation by the current administration puts the City in a financially untenable situation which we need to stabilize. Such changes require stakeholder involvement and discussions in greater detail with the Public Safety, Health & Human Services Committee. This document serves to provide further insight into the situation, respond to Councilor questions, and begin to lay out possible policy changes to address the financial impact on the City.

Pending General Assistance (GA) Lawsuit

Currently, this lawsuit is focused on challenging the State's issuance of so-called "guidance"/amendments to the GA rules, which did not go through the proper and established substantive rule-making process. The Maine Municipal Association (MMA), Westbrook and the City all argue that the State's failure to go through this rule-making process violated the law and so the State must be enjoined from pursuing the implementation of and requiring compliance with this new "guidance"/rule. Two parties have also intervened in the lawsuit (Maine Equal Justice Partners and the American Civil Liberties Union of Maine) on behalf of individuals (asylum seekers/refugees) who receive GA benefits. They argue that the State should have gone through rule-making and further allege that "guidance"/rule is also discriminatory.

2015 General Assistance Audit

The 2015 GA audit is attached for your reference. This audit reviewed ninety (90) cases and found that the City had properly reviewed and administered benefits in all cases. Despite this, the auditors did request some additional documentation that they used to note some issues with the City's administration of GA that they find to be non-compliant with Maine law (they noted some of these same issues in an as yet unresolved 2013 audit). These alleged issues include: the presumption of eligibility for an indefinite period of time; the submittal of expenses related to the operation of shelters; not requiring shelter residents to use income or resources available for their current needs; and the submittal of requests for reimbursements for individuals who are not qualified to receive benefits

under 8 U.S.C. section 1621. The audit cites various state statutes (which have been provided to the Public Safety, Health & Human Services and Finance Committees).

Before we review the details of the audit (see below), please note that an audit occurred in 2013 which was challenged by the City (also provided to the Public Safety, Health & Human Services and Finance Committees). To date, we have never received a final response from the State, and so we did not take any further action with regard to the 2013 audit.

First, it is important to describe the process of responding to the audit. The process is as follows: if the City disagrees with the aforementioned audit findings, it is required to respond to the State within ten (10) days of the receipt of the audit report. In this case, we have requested and have been granted an extension of this deadline to March 16, 2015. Thereafter, if the City is still found to be out of compliance with the GA requirements (as determined by the State) the City will have thirty (30) days to submit a plan of correction, which is to specify what action shall be taken in order to achieve compliance. If the plan is accepted by the State, the City will receive a written response indicating this and another review will be done within sixty (60) days. Ultimately, if at a subsequent review the same violations are found, the State/DHHS may then (at that time only) be entitled to withhold reimbursement to the City relative to GA payments made after the initial notification of non-compliance has been issued until compliance is met.

Next, it is important to note in reviewing the 2015 GA audit and determining next steps (all of which will be discussed in detail as they relate to the City's legal rights and duties in executive session on Monday night), that the City has had numerous discussions with the State/DHHS with regard to the very same issues since the mid-1980s. In fact, correspondence/documentation (also provided to the Public Safety, Health & Human Services and Finance Committees) exchanged between the City and the State/DHHS indicates that the issues were raised in the past and ultimately resolved (with the State/DHHS's agreement and the addition in 1989 and the deletion in 1992 of statutory language in 22 M.R.S. sections 4304(3) and 4308) to allow the City to "presume eligibility" for persons to whom the City provides the services of the emergency shelter and bill the State/DHHS for the operating costs of the shelter.

2015 GA Audit – Proposed Actions in Response to Alleged Violations

The following proposed actions are indicative of City administration's desire to mitigate the negative financial impact of the Governor's and State DHHS' change in policy direction. These recommended changes should in no way be interpreted to mean that the City has not been operating in accordance with its written agreements with the State for the last 20-plus years.

Alleged Violation	Response	Proposed Action
(1) Eligibility of shelter residents for assistance is not being determined [on a monthly basis] as required by statute and eligibility applications are not being properly	Shelter consumers who do not receive direct GA benefits have not been required before now, per State audits, to complete a full eligibility screen. All other GA beneficiaries have to	Comply effective May 1 (to allow time to work with stakeholders and communicate with clients). Monthly eligibility form for shelter consumers is included in Attachment

Alleged Violation	Response	Proposed Action
processed.	complete the full eligibility screening process as required in statute.	E.
(2) Presumptive eligibility provisions...are being incorrectly applied... beyond an initial night at the shelter.	Please see Response above in (1).	Please see Proposed Action above in (1).
(3) The General Assistance program... does not permit reimbursement to municipalities for operating expenses of shelters apart from costs directly attributable to eligible individuals.	As discussed above, the City and the State have had previous discussions over the past decades about this and, until now, the City's practices were deemed in compliance.	Comply effective May 1 (to allow time to work with stakeholders and communicate with clients). The potential cost to the City, at best, would be \$820,235. This estimate comes from 2014 Shelter Costs of \$2,780,219, with 81,666 bed nights and a cost per night of \$34.04. Even if each shelter consumer was deemed eligible for the maximum allowance per night (\$24), and assuming a stable number of bed nights, the reimbursement would be \$1,959,984, thus the loss to the City of a minimum of \$820,235.
(4) The City... is not requiring residents of an emergency shelter to utilize any income or resources they have for their current needs... nor are they requiring that eligibility for assistance be based on need...	Annual State audits and official correspondence, as noted in (3), have consistently approved this practice.	Effective May 1, the City will comply with the State's current interpretation of eligibility and utilization of income requirements. However, it is important to restate that the City is required to determine GA eligibility within 24 hours of application. Most of the verifications are supplied by the State, and the City's records show that the State takes between 1-3 months to provide this verification.
(5) The City... is incorrectly submitted reimbursement requests for individuals who are not U.S. citizens or otherwise eligible for state and local benefits...	Annual State audits and official correspondence, as noted in (3), have consistently approved this practice.	This item is the subject of pending litigation.

Councilor Questions – Questions in addition to those addressed in the first section:

- **How are Financial Eligibility staff trained?** New staff job shadow with current FES staff to learn the specific job functions and methods of interviewing applicants. All new staff also meet with each program to learn about other resources available to clients.
- **What information does the City require from GA applicants? When is that information requested and when is it received?** Applicants must provide proof of all household income and identification for themselves and all household members (i.e., driver's license, birth certificate, Social Security card, passport, immigration documents). The City's Client Intake Form, the State's DHHS/General Assistance Verification Form and Release of Information, and the City's Reapplication for General Assistance forms have been provided to the Public Safety, Health & Human Services and Finance Committees. Clients presenting for emergency shelter are presumed eligible; all others complete the financial eligibility process and the City has 24 hours to make a determination. Shelter staff use a check-in software system based on a photo identification card that is scanned. The system enters the individual's data into both a MaineHousing database and a City database. Every 30 days, each shelter user is required to sign a State DHHS eligibility form (within Attachment F) which includes questions related to income.
- **How are financial resources (eg, bank records) verified?** Inquiries are submitted to the State DHHS for Temporary Assistance for Needy Families, Refugee Cash Assistance, Food Supplement, Child Support, and SSI/SSDI verification. However, there is at least a one-month response time (staff report often up to three months), which means that applicants receive assistance prior to verification because the City is required to render a decision within 24 hours of application.
- **Do we deny GA if an applicant doesn't meet a means test?** Yes. All income must be exhausted on basic necessities (rent, heat/utility, personal/household needs, and food) and receipts provided. If utility payment is requested, the applicant must provide the entire bill or disconnect notice; only bills in the applicant's name can be considered. Applicants must apply for and use all other available resources, including Federal Food Stamps, Temporary Assistance for Needy Families, MaineCare/Medicare, unemployment benefits, Heating & Energy Assistance Program, subsidized housing programs, other government and community assistance programs. In addition, the individuals mentioned in the recent Press Herald article who have significant resources are Representative Payee clients. Less than 10% of shelter clients who are Rep Payee clients have assets lower than \$2,000; most with less than \$1,000 with two exceptions, one with \$6,000 and one with \$12,000.
- **How many total applications for GA does the City receive? How many are granted and how many are denied?** For calendar year 2014:

	Unduplicated	Duplicated
Total GA Applications	2,739	16,416
Denied	301	1,686
Approved	2,438	14,730

Please note that "Duplicated" refers to applicants who need assistance beyond the initial 30 days.

- **Why does our interpretation of federal law regarding asylum seekers differs from Governor's? Consider FOAA request related to all correspondence between Governor's office, DHHS, Maine**

Heritage Policy Center regarding this issue. Outside Counsel was present at last week's Council Workshop in executive session to discuss this issue in more detail.

- **What are other resources for asylum seekers if we don't provide services?** Food pantries, soup kitchens, community health services, church-based and other thrift stores. The City funds many of these services through CDBG and other City contracts. If the State changes the language in the GA statute to prevent asylum seekers from qualifying for GA, there will be over 500 families who will lose their housing (more than 900 individuals).
- **What discretion would City have had to change billing practices given that already audited and approved by State?** Assuming that the question here is whether we can determine billing practices or whether we are required to adhere to those practices already audited and approved by the State, the law states that we "may" presume eligibility but are not required to do so.
- **What was the actual cost of what the City billed for clients with assets, what was the amount reimbursed, and were any of these cases audited by state in the past?** Audited cases would have been for GA applicants, which would exclude shelter consumers who did not apply for any direct GA benefits. We cannot provide specific answers to these questions because we never billed for individuals because we used presumed eligibility based on the cost of operating the shelter. The individuals cited in the Press Herald article were shelter users. The City's practice has been to bill for the cost of utilizing the shelter and not an individualized amount. These costs, based on a State funding formula, have been paid to the City every year with the exception of the current year.
- **Would the City be able to recoup and/or address any improper payment of GA benefits?** City ordinance (Chapter 13, section 13-6, attached hereto) and State law (22 M.R.S. section 4315) specify that the City is able to review the matter and ultimately disqualify individuals who have falsely obtained a benefit and (if the individual does not appeal that determination), the law specifies that the individual would also be required to reimburse the City for any assistance he/she received to which he/she was not entitled.

Short-Term Financial Impacts

- The updated State interpretation and potential future changes in GA rules and reimbursement formula will put a significant strain on the City's finances and budgeting process. In the short term, the State has been withholding general assistance reimbursements for FY15.
- The City had budgeted for GA reimbursements from the State of over \$8 million during the current fiscal year and have received none due to the legal dispute. Over \$6 million has already been spent. These likely budget shortfalls are separate from other City budget challenges including winter operations.
- There are no short-term legal costs associated with the pending GA lawsuit.
- There are anticipated implementation costs with the proposed compliance actions to be effective May 1, and the City would also have to set aside funds to assist those who are denied services.

Long-Term Financial Impacts

- The ongoing legal dispute with the State will also cause long-term uncertainty in timing and amount of GA reimbursements.
- Based on recent calculations by the City Department of Health and Human Services, the proposed changes in GA reimbursement formula will trigger a decrease in State GA reimbursements by at

least \$3 million next year. GA reimbursements are expected to decrease in each of the first 6 years under the new formula.

- Uncertainty in timing and amount of GA reimbursements will put significant strain on the City's budgeting process and the City Charter (Article VII) clearly notes that during our budgeting process the total of proposed expenditures shall not exceed the total of proposed income.
- Budget shortfalls could trigger additional adverse financial implications. The worst case scenario would be a budget shortfall caused by lack of GA reimbursement as a contributing factor in a future decrease in City credit rating. The City is in a healthy financial position but the GA reimbursements are an important component of the budget.
- A decrease in the City's credit rating would have a snowball effect on finances. Insurance on the City's pension obligation debt would become more expensive. The City's ability to refinance existing debt (which occurs on an annual basis) would be hampered, and the City's refinance options would be less attractive. New debt issued by the City would also carry a higher debt service cost.

Analyzing the City's GA budget from Fiscal Years 2009-2014 shows the following trends:

- Overall, the GA costs (which includes both Oxford Street and Family Shelters) have risen by 81%.
- The numbers of GA clients has remained relatively stable. However, the percentage of clients who are not eligible for any federal benefits have increased significantly, which places a correspondingly greater burden on many of the GA budget lines.
- Costs for the Oxford Street shelter increased from FY09-14 by 84% due to the higher staffing required for multiple overflow shelters beginning in FY12.
- Diaper costs grew 84% with a shift to families with larger numbers of young children.
- Rent costs have expanded by 88% because of the tight housing market in Portland, economic pressures including higher rate of job loss, and increased numbers of asylum seekers.
- Prescription costs increased by 82% because of the reduction in MaineCare coverage when Maine chose not to expand under the Affordable Care Act.
- Food costs grew by 135% because of the immense growth in clients with no Food Stamps eligibility (asylum seekers). Similarly, non-food costs rose by 86%.

Updated numbers on reimbursement for GA clients who are considered "lawful" versus "unlawful" (since June 17, the first day of implementation of the new guidance/rule) are as follows:

- Gross expenditures for "lawful" clients – \$3.1 million
- Gross expenditures for "unlawful" clients – \$1.5 million
- Reimbursement including "unlawful" – \$3 million
- Not reimbursed – \$1 million

Plan of Action and Next Steps

While the City has been proven compliant by prior State audits for decades, we must now take action to address the financial impact on the City. Possible policy changes, as described above, could be discussed in greater detail by the Public Safety, Health & Human Services Committee. In addition, it seems prudent to also respond to the suggestions provided by State DHHS Commissioner Mary Mayhew in her 2/21/15 piece in the Press Herald:

Cmsr. Mayhew's Suggestion	Proposed Response
(1) Audit GA rolls for fraudulent applications	(1) Increase audit frequency working within staffing constraints. Work with other municipalities both in-state and out to take responsibility for their residents who seek GA in Portland.
(2) Enforce job search requirements	(2) Increase enforcement working within staffing constraints and poor verification ...
(3) Reduce benefit amounts	(3) While benefit amounts are set by the State and not the City, staff propose suspending food vouchers for GA clients who also receive federal SNAP benefits. (estimated savings: \$155,250) Cap reimbursement for overflow families to stay in hotels at the maximum rent reimbursement rate. Cap the GA budget and cease benefits after reaching that amount and/or length of time. Hold spouses and/or parents responsible ("Under 25" rule). Collaborate with Maine Medical Center/CarePartners to provide prescription drug coverage. (estimated savings: \$40,000) End rent vouchers on leases with co-signers. Work with other Portland shelters which receive City funding to tighten eligibility requirements and verifications. Charge daily rate for individuals with resources.
(4) Limit eligibility periods	(4) State statute requires eligibility re-evaluation every 30 days at a minimum. The City would need more staff to conduct more frequently.
(5) Place heavier scrutiny on emergency applications	(5) Strengthen after-hours procedures and requirements. Define emergency as life-threatening and beyond the control of the applicant.

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

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

Order 183-14/15
~~Tab 15 3-16-15~~
Tab 24 4-6-15

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 12. GARBAGE, WASTES AND JUNK
RE: ABANDONED BICYCLES

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

That Chapter 12 is hereby amended to read as follows:

Art. I. In General, § 12-1--12-15
Art. II. Garbage and Solid Waste Removal/Recycling, §§
12-16--12-45
Art. III. Health Nuisances, §§ 12-46--12-60
Art. IV. Public and Private Dumps, §§ 12-61--12-74
Art. V. Junked Motor Vehicles, §§ 12-75--12-99
Art. VI. Solid Waste Disposal, §§ 12-100--12-119
Art. VII. Rendering Wastes, §§ 12-120--12-205
Div. 1. Generally, §§ 12-120--12-149
Div. 2. Waste Transportation Licenses, §§ 12-150--12-199
Div. 3. Construction and Operation of Rendering Facilities,
§§ 12-200--12-205
Art. VIII. Abandoned Bicycles, §§ 12-206--12-209
...

Article VIII. Abandoned Bicycles

Sec. 12-206. Authority and Purpose.

The purpose of this Article is to make space available on
the City's limited bicycle parking facilities, remove
obstructions to the public right of way, and ensure recovered
bicycles are put to productive uses for the community.

Section 12-207. Definitions.

(a) Abandoned bicycle means any bicycle that has been
locked in the same location within the public right of way for
one month or longer and meets two or more of the following
criteria:

- (1) no tires or wheels;
- (2) missing or warped wheels, handle bars, or seats;
- (3) missing, rusted, or broken chain in a state that renders it inoperative; or
- (4) visible layer of dust on the seat and/or handle bars.

(b) Recovered bicycle means any bicycle tagged and removed as provided in this Article and as further detailed in the rules and regulations for said program established by the Department of Public Services.

(c) Removal notice means a physical tag placed on a bicycle deemed to be abandoned pursuant to subsection (a), above, by the Department of Public Services and demanding its removal.

(d) Non-profit partner means a local organization that specializes in refurbishing bicycles and that has expressed an interest and ability to put recovered bicycles back into productive uses for the community.

Section 12-208. Identification & Removal Process

(a) Where the Department of Public Services concludes that a bicycle meets the definition of an abandoned bicycle outlined in section 12-207(a), that bicycle may be tagged with a Removal Notice. The tag will list the date by which the bicycle must be removed, which will be within 72 hours (3 days) of being tagged.

(b) Bicycles locked within the public right of way that are blocking the vehicular travel lane(s), the pedestrian way, a handicapped access ramp, or otherwise presenting a public safety hazard may be removed immediately without notice.

(c) All bicycles tagged with a Removal Notice and remaining unclaimed after the 72-hour notice period will be removed and stored by the Department of Public Services for a minimum of 30 days.

(d) If unclaimed after 30 days, the Department of Public Services may donate unclaimed bicycles to a local non-profit partner.

Section 12-209. Policy Implementation

This Article shall not alter the procedures or responsibilities of the Portland Police Department with respect to bicycles transferred to its possession and disposed of pursuant to 25 M.R.S. §§ 3501-3507. One (1) year after implementation, the Department of Public Services in conjunction with the Planning and Urban Development Department will evaluate the City's abandoned bicycle program and its current non-profit partner(s) to determine compliance with the purpose as stated in Section 12-206.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Kristine Keeney, Transportation Division

DATE: 3/2/15

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: Abandoned Bicycle Ordinance

SPONSOR: Transportation, Sustainability, and Energy Committee, 2/18/15, unanimous

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading: 3/16/15 Final Action: 4/06/15

Can action be taken at a later date: ____ Yes ____ **X** No (If no why not?)

The goal of City staff is to tag and remove abandoned bicycles that are taking up scarce space on the City's bike racks and cluttering public property before the peak summer season.

PRESENTATION: Kristine Keeney, Transportation Division, oral presentation, 5 minutes

I. SUMMARY OF ISSUE (Agenda Description)

Bicycles that appear to be abandoned have been locked to public property for months and in some cases years, taking up valuable space on the City's bike racks and cluttering the public right of way and public property. Public Services staff have been unable to remove bikes identified as abandoned because there are currently no policies or procedures to legally and appropriately handle this type of property. Staff seeks the adoption of the proposed Abandoned Bicycle Ordinance by City Council so that bikes can be identified, removed, and donated to a local organization that can put them back into productive uses for the community.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

City staff have received numerous inquiries and complaints from residents regarding abandoned bicycles locked on public property, particularly the bicycle racks at the Casco Bay Municipal Ferry Terminal and on Forest City Landing on Peaks Island. Residents have contacted several different City departments looking for someone to remove the bikes, but without an existing policy staff have been unable to satisfy these requests from the public.

The purpose of the ordinance is to give staff the ability to handle abandoned bikes in an effort to make space available on the City's limited bicycle racks, remove obstructions and clutter from public property, and ensure recovered bicycles are put to productive uses for the community.

III. INTENDED RESULT

The proposed ordinance would define an abandoned bicycle as any bike that has been locked in the same location on public property for one month or longer and meets two or more of the following criteria:

- i. No tires or wheels
- ii. Missing or warped wheels, handle bars, or seats
- iii. Missing, rusted, or broken chain in a state that renders it inoperative

- iv. Visible layer of dust on the seat and/or handle bars.

The ordinance also lays out the removal process by which the Department of Public Services concludes that a bicycle meets the established definition of an abandoned bicycle and tags it with a Removal Notice. The notice will list the date by which the bicycle must be moved by the owner, which will be within 72 hours of being tagged.

All bicycles that are not moved and remain unclaimed within the 72-hour notice period will be removed by Public Services staff and stored for a minimum of 30 days. The City will not be responsible for damages to locks or bicycles that are removed under this policy. If unclaimed after 30 days, the bicycles will be donated to a local non-profit partner that specializes in refurbishing bicycles.

IV. COUNCIL GOAL ADDRESSED

Address repeated inquiries from constituents and make City bicycle facilities cleaner and more accessible for residents and visitors.

V. FINANCIAL IMPACT

The only anticipated financial impact from the approval of the proposed ordinance is in staff time and limited spending on permanent signage at certain problem locations.

VI. STAFF ANALYSIS

There are currently no policies or procedures for staff to address the issue of abandoned bicycles locked on city property. While the Portland Police Department handles unclaimed, lost, or stolen property throughout the City, they do not have the capacity to tag, cut locks, transport, process, and separate abandoned bicycles for donation to a local non-profit.

Maine state law allows municipalities to dispose of unclaimed bicycles in a manner decided by the local legislative body. Therefore, in order for the Public Services department to be legally able to tag, remove, and donate bikes, legislative action is needed in the form of an ordinance.

If approved, staff can quickly respond to resident concerns about abandoned bikes locked to public property. Additionally, the bicycles can also be donated to a local non-profit organization to be refurbished and put towards beneficial uses for the community.

VII. RECOMMENDATION

Staff recommends that the Council adopt the proposed Abandoned Bicycle Ordinance and amend Chapter 12 of the Portland City Code.

VIII. LIST ATTACHMENTS

1. **Abandoned Bicycle Ordinance-** **Please note a minor language change was made by Corporation Counsel to the ordinance on page 2, Section 12-208(d) highlighted in red text since TS&E approval*
2. **Abandoned Bicycle Policy**
3. **Abandoned Bicycle Removal Notices**

Prepared by: Kristine Keeney

Date: 3/2/2015



City of Portland Department of Public Services

Abandoned Bicycle Policy

Abandoned Bicycles

A bicycle may be deemed abandoned if it has been locked in the same location on public property for one month or longer and meets two or more of the following criteria at which point it can be removed by the Department of Public Services for public safety and maintenance purposes:

1. no tires or wheels
2. missing or warped wheels, handle bars, or seats
3. missing, rusted, or broken chain in a state that renders it inoperative
4. visible layer of dust on the seat and/or handle bars

If you identify an abandoned bicycle please contact Public Services Dispatch at 207-874-8493. When reporting an abandoned bike, please provide a description of the bicycle's color, location, type of lock, what the bike is locked to (such as a bike rack, sign or light post, fence, etc.), and at least two criteria from the list above.

Bicycle Removal Process

Bicycles that have been deemed abandoned based on the above criteria will be tagged with an *"Abandoned Bicycle Removal Notice"* by the Department of Public Services. The tag will list the date that the bicycle must be moved by the owner, which will be within 72 hours (3 days) of being tagged. If a serial number is located on the bicycle, the Department of Public Services staff will contact the Portland Police Department dispatch to verify the bicycle is not stolen property. If the bicycle has not been moved by the above date the Department of Public Services will remove the bicycle. Bicycles that are blocking the pedestrian way or a handicapped access ramp can be removed immediately without notice.

All bicycles will be stored for a minimum of 30 days. You may retrieve your bicycle (at no charge) by contacting Public Services Dispatch at 207-874-8493. If your bicycle has been tagged in error simply take off the tag and move your bike to a different location.

THE DEPARTMENT OF PUBLIC SERVICES IS NOT RESPONSIBLE FOR DAMAGES TO LOCKS OR BICYCLES THAT ARE REMOVED.

Removing abandoned bicycles helps keep the City's limited bicycle parking and scarce sidewalk space useful and safe for everyone. All unclaimed bicycles will be donated to a local non-profit that specializes in refurbishing bicycles.

ABANDONED BICYCLE REMOVAL NOTICE



Tag ID:

ABANDONED BICYCLE REMOVAL NOTICE

This bicycle has been identified as abandoned and will be removed on ____/____/____. The owner is responsible for moving the bicycle by the above date to another location. If the bicycle has not been moved by the above date the Department of Public Services will remove the bicycle and it will be stored for no less than 30 days. If the bicycle is not claimed within 30 days of removal it will be donated to a local non-profit organization.

If this bicycle is not abandoned and cannot be moved by the above date please call Public Services Dispatch at 207-874-8493.

ABANDONED BICYCLE REMOVAL NOTICE



Tag ID:

ABANDONED BICYCLE REMOVAL NOTICE

This bicycle has been identified as abandoned and will be removed on ____/____/____. The owner is responsible for moving the bicycle by the above date to another location. If the bicycle has not been moved by the above date the Department of Public Services will remove the bicycle and it will be stored for no less than 30 days. If the bicycle is not claimed within 30 days of removal it will be donated to a local non-profit organization.

If this bicycle is not abandoned and cannot be moved by the above date please call Public Services Dispatch at 207-874-8493.

ABANDONED BICYCLE REMOVAL NOTICE



Tag ID:

ABANDONED BICYCLE REMOVAL NOTICE

This bicycle has been identified as abandoned and will be removed on ____/____/____. The owner is responsible for moving the bicycle by the above date to another location. If the bicycle has not been moved by the above date the Department of Public Services will remove the bicycle and it will be stored for no less than 30 days. If the bicycle is not claimed within 30 days of removal it will be donated to a local non-profit organization.

If this bicycle is not abandoned and cannot be moved by the above date please call Public Services Dispatch at 207-874-8493.

Order 184-14/15
~~Tab 16~~ 3-16-15
Tab 28 4-6-15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
Re: 58 Fore Street**

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

That Chapter 14, Article III, Division 1, Section 48,
Division 15.1, Section 14-269 to 14-273, Division 17.5, Sections
301 to 301.1, and 303, Division 18.7, Sections 320.5 to 320.10,
Division 22, Section 369.5, Division 26, Section 449, and
Article V, Section 524 of the Portland City Code are hereby
amended to read as follows:

DIVISION 1. GENERALLY

...
Sec. 14-48. Establishment of zones.

In order to carry out the provisions of this article, the
city is hereby divided into the following classes of zones:

...
~~(dd) Waterfront special use zone~~
...

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

...
Sec. 14-269. Permitted uses.

The following uses are permitted in the B-6 zone:

(a) Commercial:

1. Professional, business and general offices;
2. Restaurants and other eating and drinking
establishments, except that no drinking

establishments as defined in section 14-47 that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street, and provided that restaurants that are located east of Waterville Street and within fifty feet (50') of Fore Street must meet the following requirements:

a. The hours of operation shall be limited to between 5:00 a.m. and 11:00 p.m. each day.

b. Food service and consumption are the primary function of the restaurant;

3. Hotels and inns limited to no more than 150 rooms;
4. Craft and specialty shops, including the on-premises production of handcrafted goods;
5. Retail and retail service establishments, excluding those with gas pumps;
6. Theatres;
7. Banking services, excluding vehicular drive-up services;

Editor's Note: Drive-up banking facilities located in the interior of parking structures are allowed as a conditional use subject to the criteria outlined below in the conditional use provisions of this section.

8. Cabinet and carpentry shops;
9. Personal services;
10. Business services;
11. Offices of business trades people;
12. Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments;
13. Telecommunication and broadcast and receiving facilities, except as prohibited in section 14-

271 (prohibited uses);

In addition, building mounted telecommunications antennas, discs, transmitting and receiving equipment and the like shall adhere to the following criteria. Such roof-mounted equipment shall be:

- a. No taller than 15 feet above the highest structural steel of the building roof; and
 - b. Set back no less than 15 feet from the building perimeter; and
 - c. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.
14. Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output, except that no brew pubs or microbreweries that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street.
 15. Electronic data storage;
 16. Marine products wholesaling and retailing;
 17. Harbor and marine supplies and services, chandlery and ship supply;
 18. Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels;
 19. Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.
 - ~~19~~20. Printing establishments.

(b) *Residential:*

1. Attached dwellings including row houses, two-family and multifamily dwellings;
2. Handicapped family units;
3. Combined living/working spaces, including but not limited to artist residences with studio space;
4. Mixed use residential and commercial structures.

(c) *Public:*

1. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures;
2. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces;
3. Pedestrian and multi-use trails;

(d) *Other:*

1. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians;
2. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, except that parking lots shall not be considered a permitted accessory use and such parking is subject to the conditional use section of the B-6 zone.
3. Health clubs, martial arts and mediation meditation facilities.
4. Intermodal transportation facilities.
5. Nursery schools, kindergartens, and daycare facilities or home babysitting services.

6. Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
7. Educational facilities.
8. Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.
9. Museums and art galleries.

(e) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

...

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

...

Sec. 14-272. Dimensional requirements.

In addition to the provisions of article III, division 25 of this Code, lots in the B-6 Eastern Waterfront Business Zone shall meet the following requirements:

...

3. View Corridors and Key Street Wall Development

Notwithstanding sections 1. and 2. above, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes shown on the B6 Building Height Overlay & Building Envelopes map Eastern Waterfront Building Height Overlay Map. Buildings located in the easternmost key building envelope, shall not have a maximum front setback, and shall not be required to build to the key building envelope perimeter. Parking structures and the buildings for public transportation facilities may, however, set back beyond the key building

envelopes (toward the interior of blocks), but may not occupy the land between the key building envelope and the street right of way.

- (d) Minimum length of building wall required to be located along street frontage of lot (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to this requirement).

- i. 70% of lot street frontage; or
- ii. 25% of building perimeter,
- iii. For buildings fronting on two or more streets, the minimum building wall on one street may be decreased so long as the frontage is proportionally increased on other streets in so far that the building wall on the secondary street is not reduced to less than 25 feet.

- (e) Maximum lot coverage: One hundred (100) percent.

- (f) Maximum building height: 65 feet, or as otherwise governed by a Building Height Overlay map (for example, in the Eastern Waterfront). Building Height Overlay maps are found in the Planning and Development Department Office.

- (g) Minimum building height: No new construction of any building shall have less than three (3) floors of habitable space above the average adjacent grade within twenty five (25) feet of any public street (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to a minimum building height).

...

Sec. 14-273. Performance standards.

All new development in the B-6 Eastern Waterfront Business Zone shall comply with the following standards:

(b) Noise:

4. Exemptions:

- a. Noises created by construction and maintenance activities between 7:00 a.m. and 10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section. Construction activities on a site abutting any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.
- b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:
 - i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
 - ii. Traffic noise on public roads or noise created by airplanes and railroads.
 - iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.
 - iv. Emergency construction or repair work by public utilities, at any hour.
 - v. Noise created by any ~~recreational activities~~ temporary activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, ~~and fireworks displays,~~ festivals, events and

concerts.

DIVISION 17.5. EASTERN WATERFRONT PORT ZONE*

Sec.14-301. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-300.1. (no adverse impact on marine uses), the following uses are permitted in the Eastern Waterfront Port Zone:

(b) *Marine commercial:*

1. Transient and long-term commercial berthing;
2. Marine-related warehousing;
3. Marine related construction, manufacturing, fabrication, salvage and repair;
4. Storage and repair of fishing equipment;
5. Ship and other marine vessel construction, building, servicing, and repair;
6. Boat and marine equipment storage;
7. ~~Marine fuel storage and dispensing provided that on site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone, Harbor and~~
marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;
8. Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis;
9. Ship and off-shore support services, including

but not limited to tug boats, pilot boats, and chandleries;

10. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;—
11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26;
12. Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.

...

(e) Other:

1. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
2. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

Sec. 14-301.1. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the Eastern Waterfront Port Zone, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority, and provided further that in addition to the provision of section 14-474(c)(2) such uses will not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and meet all additional standards set forth below:

...

2. Conditional uses:

a. Marine:

- i. Marine products, wholesaling and retailing;
- ii. Ice-making services;
- iii. Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight;
- iv. Marine educational facilities;
- v. Seafood retailing, wholesaling, packaging and shipping;
- vi. Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304;
- vii. Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing;
- viii. Fish byproducts processing, provided that:
 - a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
 - b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or

minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-252); and

- c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.

...

Sec. 14-303. Dimensional requirements.

...

4. Setback from pier line: Notwithstanding the above requirements, a minimum setback of twenty-five(25) feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 14-301(b)(12), may be located up to five (5) feet from the edge of any pier, wharf or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other non water-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

...

DIVISION 18.7. WATERFRONT SPECIAL USE ZONE* RESERVED

~~-----~~
~~*Editor's Note See the editor's note to division 18 of this article.~~

~~Sec. 14-320.5. Purpose.~~

~~The waterfront special use zone recognizes that the uses appropriate in this zone are constrained by its proximity to heavy industrial use on the western end, a high density residential neighborhood on the north, and park and R OS land to the east. Uses to be located in this zone must be compatible with these existing neighborhood uses.~~

~~At a minimum, parcels in this zone generally enjoy visual access to the port. It is further recognized that this area has historically been used for marine uses and that some of the parcels have the capacity to accommodate active water dependent uses. While physical access to the water may not currently be legally available to all parcels in this zone, it is anticipated that developments in this zone may be able to negotiate easements for access. At a minimum, development in this zone should not be incompatible with marine and water dependent uses. Uses which contribute to the maintenance and improvement of the infrastructure along the water's edge as a condition of use are strongly encouraged.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14-320.5.5. No adverse impact on marine uses.~~

~~No use shall be permitted, approved or established in this zone if it will have an impermissible adverse impact on future marine development opportunities. A proposed development will have an impermissible adverse impact if it will result in any one (1) or more of the following:~~

- ~~(a) The proposed nonwater dependent use will displace an existing water dependent use;~~
- ~~(b) The proposed use will reduce existing commercial vessel berthing space;~~
- ~~(c) The proposed nonwater dependent use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water dependent uses or significantly impede access to vessel berthing or other access to the water by water dependent uses; or~~
- ~~(d) The siting of a proposed nonwater dependent use will substantially reduce or inhibit existing public access to marine or tidal waters.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14-320.6. Permitted uses.~~

~~Subject to a determination that the proposed use meets the standards of section 14-320.5.5 (no adverse impact on marine~~

~~uses):~~

~~(a) The following uses are permitted in the waterfront special use zone on both the north and south sides of the railroad line indicated on the City of Portland Zoning Map:~~

~~i. Marine:~~

- ~~a. Marine products, wholesaling, distribution and retailing;~~
- ~~b. Marine repair services and machine shops;~~
- ~~c. Tugboat, fireboat, pilot boat and similar services;~~
- ~~d. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;~~
- ~~e. Marine industrial welding and fabricating;~~
- ~~f. Shipbuilding and facilities for construction, maintenance and repair of vessels;~~
- ~~g. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water taxis;~~
- ~~h. Cargo handling facilities, including docking, loading and related storage;~~
- ~~i. Boat repair yards;~~
- ~~j. Boat storage facilities, including rack storage facilities;~~
- ~~k. Seafood processing;~~
 - ~~vi. Seafood packing and packaging;~~
- ~~m. Seafood loading and seafood distribution;~~

~~n. Fabrication, storage and repair of fishing equipment;~~

~~o. Ice making services;~~

~~p. Facilities for marine construction and salvage;~~

~~q. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;~~

~~r. Fabrication of marine related goods;~~

~~s. Fishing and commercial vessel berthing;~~

~~t. Noncommercial berthing;~~

~~u. Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers;~~

~~v. Public landings;~~

~~w. Marinas;~~

~~x. Intermodal transportation facilities.~~

~~2. Industrial uses:~~

~~Industrial uses which meet the performance standards of the I 2 zone.~~

~~3. Public:~~

~~Pedestrian and bicycle trails.~~

~~— The following uses are permitted in the waterfront special use zone only on the north side of the railroad tracks indicated on the City of Portland Zoning Map only in (a) buildings in existence on January 4, 1993, or (b) one (1) new structure per parcel (as defined in 30 A.M.R.S.A. Section 4401(6)), which parcel was in existence on January 4, 1993, of up to five thousand (5,000) square feet in total floor area. No~~

~~construction of a new structure of more than five thousand (5,000) square feet in total floor area or in excess of one (1) per parcel for uses other than those specified in subsections (1) through (3) above is allowed without approval of a conditional use pursuant to section 14-320.6.5 or conditional or contract rezoning pursuant to division 1.5 of this article.~~

~~4. Commercial uses:~~

- ~~a. Professional, business, and general offices;~~
- ~~b. Business service establishments;~~
- ~~c. Restaurants, provided that food service and consumption shall be the primary function of the restaurant;~~
- ~~d. Cabinet and carpentry shops;~~
- ~~e. Cold storage facilities;~~
- ~~f. Museums and art galleries.~~

~~5. Other:~~

- ~~a. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses or temporary exhibition uses, provided that all such exhibition uses on a lot do not exceed a combined total of sixty (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time;~~
- ~~b. Parking: Parking shall be permitted as long as it does not impede access to water by existing or potential marine uses.~~
- ~~c. Institutional uses including marine research, education and laboratory facilities. Such uses shall not include any type of overnight accommodations.~~
- ~~d. Wind energy systems, as defined and allowed in Article X, Alternative Energy.~~

~~6. Public:~~

- ~~a. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water;~~
- ~~b. Municipal uses;~~
- ~~c. Landscaped pedestrian parks, plazas and similar outdoor pedestrian spaces, including without limitation pedestrian and bicycle trails.~~

~~7. Industrial uses:~~

~~Warehousing and wholesaling.~~

~~(Ord. No. 168-93, § 2, 1-4-93; Ord No. 187-99, 1-4-99; Ord. No. 33-11/12, 1-18-12)~~

~~Sec. 14-320.6.5. Conditional uses.~~

~~(a) The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of sections 14-320.5.5, 14-474 and any special provisions, standards or requirements specified below, and further 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. Any use permitted in section 14-320.6(d)2, 4, 5 or 6, (e), (f) or (g), in one (1) new structure of more than five thousand (5,000) square feet, but not more than ten thousand (10,000) square feet in total floor area per parcel.~~

~~(b) The following use shall be permitted only upon the issuance of a conditional use permit subject to the provisions of section 14-474 (conditional uses), and any special provisions, standards or requirements specified below:~~

- ~~1. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following~~

~~standards are met in addition to Sec 14-430:~~

- ~~a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and~~
- ~~b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and~~
- ~~c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and~~
- ~~d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and~~
- ~~e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and~~
- ~~f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and~~
- ~~g. Towers shall be used for installing anemometers and similar devices at a range~~

~~of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose, and~~

~~h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.~~

~~2. Wind energy systems, as defined and allowed in Article X, Alternative Energy.~~

~~(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12)~~

~~Sec. 14 320.7. Contract or conditional zoning.~~

~~An applicant may only construct a new structure of either more than five thousand (5,000) square feet in total floor area for occupancy by uses enumerated in section 14 320.6(d)1, or ten thousand (10,000) square feet in total floor area for occupancy by uses enumerated in section 14 320.6(d)2, 4, 5 or 6, (e), (f) or (g) or in excess of one (1) per parcel for occupancy by those same uses if a rezoning is approved pursuant to division 1.5 of this article. A conditional or contract rezoning shall only be approved if, after public hearing and opportunity for public comment, the reviewing body finds that the applicant has carried the burden of proof to show that the proposed development meets the standards of section 14 320.55 and all of the following standards:~~

~~(a) The proposed development is consistent with the comprehensive plan.~~

~~(b) The project's public benefits outweigh its potential negative impacts, taking into consideration as public benefits protection of existing water dependent uses, preservation of future water dependent use development opportunities, contribution to the development of and/or on going maintenance of the marine infrastructure for commercial vessels (either on or~~

~~off site), and visual and physical access to the waterfront for the general public.~~

~~(c) The proposed development responds to any unique physical conditions and development opportunities along the shoreline.~~

~~(d) The proposed development is sensitive to design opportunities and local environmental conditions, makes use of creative design solutions, does not significantly restrict air, light or water views of other structures located in the vicinity and does not create significant adverse local climatic effects such as increased winds, shadowing, or less efficient traffic, parking or circulation patterns.~~

~~(e) The proposed development is consistent with the Portland Waterfront Public Access Design Guidelines, a copy of which is on file in the department of planning and urban development.~~

~~(f) The proposed rezoning contains adequate provisions and/or conditions to ensure that the water dependent use is not abandoned after the project is developed.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14-320.8. Prohibited uses.~~

~~Uses which are not enumerated in section 14-320.6 as permitted or in section 14-320.6.5 as conditional uses are prohibited.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14 320.9. Dimensional requirements.~~

~~In addition to the provisions of article III, division 25 of this Code, lots in the waterfront special use zone shall be subject to the following requirements:~~

- ~~(a) Minimum lot size: None.~~
- ~~(b) Minimum frontage: None.~~
- ~~(c) Minimum yard dimensions:~~

~~Front setback: None.~~

~~Side setback: None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty five (25) feet.~~

~~Rear setback: None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty five (25) feet.~~

~~Setback from pier line: Notwithstanding the above requirements, a minimum setback of five (5) feet from the edge of any pier, wharf or bulkhead shall be required for any structure. The setback area may be utilized for activities related to the principal uses carried on in the structure, subject to the provisions of sections 14 313 and 14 314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).~~

- ~~(d) Maximum lot coverage: One hundred (100) percent.~~

- ~~(e) 1. Maximum building height: Forty five (45) feet, except in the area formed by the projection of the centerline of Atlantic Street between its intersections with Wilson Street and the Eastern Promenade easterly to the easternmost boundary of the waterfront special use zone, where facilities for bulk storage of materials delivered to a site by waterborne transportation or awaiting transportation from the site by means of waterborne transportation may be erected to heights that shall not exceed sixty five (65) feet above mean sea level. In those areas where~~

~~the maximum height may not exceed forty five (45) feet above grade, no structure may exceed sixty five (65) feet in height above mean sea level. For purposes of this section, a projection of the centerline of a street shall consist of an extension of the centerline of the street to the water side boundary of the waterfront special use zone.~~

~~2. Additional bulk, height and location standards for structures exceeding forty five (45) feet in height above grade within the waterfront special use zone:~~

~~a. The maximum horizontal diagonal measurement of portions of a structure, cluster of structures or equipment exceeding forty five (45) feet in height above grade shall not exceed one hundred (100) feet, except that for each foot that the structure, cluster of structures, or equipment is lowered from the maximum permitted height, the maximum horizontal measurement may increase by one (1) foot.~~

~~b. In addition to any other setback requirements, portions of structures or clusters of structures exceeding forty five (45) feet in height above grade shall be set back a minimum of one (1) foot from the exterior property line of the owner of the underlying fee interest for each foot that the structure or cluster of structures exceeds forty five (45) feet in height above grade.~~

~~c. No structure or cluster of structures exceeding forty five (45) feet in height above grade may be located closer than one hundred fifty (150) feet from any other such structure or cluster of structures.~~

~~d. The cumulative width of the portion of structures exceeding forty five (45) feet in height above grade shall not exceed more than thirty (30) percent of the average~~

~~width of the lot as measured by a line drawn parallel to the water.~~

~~e. No structure shall exceed forty five (45) feet in height above grade within the view corridors established by the projection of the street right of way lines for Atlantic Street, Vesper Street or for O'Brien Street.~~

~~f. For purposes of this section only, moveable elements such as cranes and gantries, and connection devices such as conveyers or bridges shall not be subject to the space and bulk requirements, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to navigation. Other rooftop appurtenances shall not exceed the maximum height limits set forth in this section.~~

~~g. The applicant must provide a determination from the Federal Aviation Administration that structures and equipment will not exceed the applicable height guidelines for the runway approach and will not create a hazard to navigable airspace. Such a determination shall be accepted as conclusive evidence that the proposed development will not create a hazard.~~

~~h. Accessory uses in structures which exceed forty five (45) feet in height above grade shall not be located higher than forty five (45) feet within the structure.~~

~~Sec. 14-320.10. Performance standards.~~

~~All uses in the waterfront special use zone shall comply with the following standards:~~

~~(a) Outdoor storage of materials: Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of forty five (45) feet, and such materials shall be entirely contained,~~

~~including runoff contaminants and residual material,
within a designated area within the lot boundaries.~~

~~(b) Noise:~~

- ~~1. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the waterfront special use zone between the hours of 7:00 p.m. and 7:00 a.m. from industrial facilities or operations commenced on or after July 1, 1988, shall not exceed fifty five (55) decibels on the A scale at or within the boundaries of any residential zone, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices.~~
- ~~2. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ₁).~~
- ~~3. In addition to the sound level standards otherwise established, facilities or operations established or built in the waterfront special use zone on or after July 1, 1988, shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones. Tonal sound is defined as a sound wave usually perceived as a hum or which because its instantaneous sound pressure varies essentially as a simple sinusoidal function of time. Impulse sounds are defined as sound events~~

~~characterized by brief excursions of sound pressure, each with a duration of less than one (1) second.~~

~~(c) Vibration: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.~~

~~(d) Federal and state environmental regulations: All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.~~

~~(e) Discharges into harbor areas: No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the department of parks and public works in accordance with chapter 24, article III of this Code. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of chapter 24, article II of this Code and federal and state environmental statutes and regulations regarding wastewater discharges.~~

~~(f) Storage of vehicles: Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days shall not be permitted.~~

~~(g) Landfill of docking and berthing areas: Landfill of docking and berthing areas shall be governed by 38 M.R.S.A. Sections 471 through 478, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the department of parks and public works and shall be accomplished in accordance with the provisions of division 25 of this article and in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable~~

waters.

- ~~(h) Off street parking: Off street parking is required as provided in division 20 (off street parking) of this article.~~
- ~~(i) Off street loading: Off street loading is required as provided in division 21 of this article.~~
- ~~(j) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.~~
- ~~(k) Lighting: All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.~~
- ~~(l) Signs: Signs shall be permitted as set forth in division 22 of this article.~~
- ~~(m) Storage of pollutants and oily wastes: On premises storage of pollutants and oily wastes shall not be permitted for more than forty five (45) days.~~
- ~~(n) Compatibility of nonmarine uses with marine uses: Nonmarine uses, structures and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses.~~

...

DIVISION 22. SIGNS

...

Sec. 14-369.5. Tables.

- (a) Table 1. Permitted sign types by zone.

Note: The following legend applies for Table 1 below:

- A. Allowed, no permit required;
- B. Allowed, permit required;
- C. Allowed, subject to licensing and permit required;
- D. Prohibited;
- E. Not Applicable

Parenthetical letters, i.e. (a), refer to the notes provided at the end of Table 1.

. . .

	I-M, I-Ma, I-Mb Industrial	I-H, I-Hb Industrial	Eastern Waterfront Port Waterfront Central Waterfront Special Use	Waterfront Port Development
Freestanding	B	B	B	B
In general(b)				
ResidentialI	A	A	A	A
Residential(d)	A	A	A	A
Temporary/ Portable (b)	D/D	B/D	D	D
Building	B	B	B	B
Commercial				
Banner				
Building	A	A	A	A
Marker(f)				
Awning	B	B	B	B
Identification(e)	A	A	A	A
Incidental(d)	A	A	A	A
Marquee(g)	B	B	B	B
Projecting	B	B	B	B
Residential(b)	A	A	A	A
Roof	D	D	D	D
Roof Integral	D	D	D	D
Suspended(g)	B	B	B	B
Temporary(h)	B	B	B	B
Wall	B	B	B	B
Window(I)	A	A	A	A
Miscellaneous	A	A	A	A
Community, Cultural Banner				
Directory(j)	A	A	A	A
Flag(k)	A	A	A	A
Pennant	D	D	D	D
Portable-in City right-of-way (A-frame)	D	D	C	D

Contents of Table 2:

- 2.1 Sign Regulations for R-1-R-7, IR-1-IR-3 Residential Zones
- 2.2 Sign Regulations for Institutional Uses in Residential Zones
- 2.3 Sign Regulations for RP Residence-Professional Zone
- 2.4 Sign Regulations for ROS/RPZ Open Space Zones & Signs in all Municipal Parks
- 2.5 Sign Regulations for B-1 Neighborhood Business Zone - Single Tenant Lots
- 2.6 Sign Regulations for B-2 Regional Business Zone - Single Tenant Lots
- 2.7 Sign Regulations for AB Airport Business Zone - Single Tenant Lots
- 2.8 Sign Regulations for B-3 Downtown Business, B-5 Urban Commercial, B-6 and B-7 Mixed Use Urban, WC Waterfront Central, ~~WSU Waterfront Special Use~~, and EWP, Eastern Waterfront Port Zones
- 2.9 Sign Regulations for IB Island Business Zone - Single Tenant Lots
- 2.10 Sign Regulations for B-4 Commercial Corridor Zone - Single Tenant Lots
- 2.11 Sign Regulations for OP Office Park Zones
- 2.12 Sign Regulations for I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb Industrial and WPD Waterfront Port Development Zones
- 2.13 Sign Regulations for B-1, B-2, AB, IB, and B-4 Business Zones - Multi-Tenant Lots
- 2.14 Sign Regulations for Gas Stations - All Zones Where Permitted

TABLE 2.8 SIGN REGULATIONS BY ZONE

Downtown Business (B-3), Urban Commercial (B-5), and Waterfront
Central (WC), ~~and Waterfront Special Use (WSU)~~ Zones

DIVISION 26. SHORELAND REGULATIONS

Sec. 14-449. Land use standards.

All land uses and land use activities subject to this division shall conform to the following standards and regulations, as applicable:

(a) *Principal and accessory structures:*

1. All principal and accessory structures shall be set back at least seventy-five (75) feet horizontal distance, from the normal high water line of water bodies, the upland edge of a wetland or associated tributary streams within a shoreland zone, except that in the following zones the setback shall be as indicated below:

- a. B-3, B-5, B-5b, I-L (south and east of I-295), and I-M (south and east of I-295): Twenty-five (25) feet.

- b. W-C, W-PD, ~~W-SU~~, I-B, EWP: No setback required. Pier edge setbacks apply in EWP (Sec. 14-303(c)(4), W-C (Sec. 14-310(d)(4), and W-PD (Sec. 320.2(c)), ~~and W-SU (Sec. 320.9(c))~~.

For the principle structures, setback measurements shall be taken from the top of a costal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant "Classification of Coastal Bluffs", and

published in the most recent Coastal Bluff Map as further referenced on the Zoning Map.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28) feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, EWP, W-C, W-PD, ~~W-SU~~, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

-
- (b) *Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line of a water body or within a wetland:*
-

6. Except in the W-C, EWP, W-PD, ~~W-SU~~, and I-B

zones, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity;

(c) *Clearing or removal of vegetation:*

1. In all shoreland areas in resource protection zones, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.
2. The clearing or removal of vegetation standards of this section shall not apply to the following zones: EWP, WCZ, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, B-7, I-L (south and east of I-295) and I-M zones (south and east of I-295).

(j) *Roads and driveways:*

1. Roads and driveways shall be setback a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone, except:
 - a. In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, I-L (south and east of I-295) and I-M (south and east of I-295) roads and driveways shall be setback as established for structures in those zones; as specified in Sec. 14-449(a)1.
 - b. Where the planning board determines that no other reasonable alternative exists. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal

distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts place so as to avoid sedimentation of the water body, tributary stream or wetland.

-
- (k) *Parking areas:* Parking areas shall be set back a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone except:

1. In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, I-L and I-M zones, parking setbacks shall be as established for structures in those zones; as specified in Sec. 14-449(a)1.

2. Parking setbacks in the S-P (stream protection) zones are as established in Division 26.7.

3. Where the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream, the board may reduce the parking setback requirement to no less than fifty (50) feet in the R-OS, and I-B zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.

....

Sec. 14-524. Site plan review processes.

Sec. 14-526. Site plan 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) B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual. New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.
- ...

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Alex Jaegerman, Planning Division Director

DATE: March 4, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: Map and Text Amendments for 58 Fore Street

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading__ March 16th _____ **Final Action**__ April 6th _____

Can action be taken at a later date: X **Yes** _____ **No (If no why not?)**

PRESENTATION: Planning Board Chair Stuart O'Brien will make a five minute presentation.

I. SUMMARY OF ISSUE (Agenda Description)

The Planning Board recommends a zoning map amendment to change 58 Fore Street and immediately adjacent property, including a 50' wide strip of land owned by the State of Maine, two city-owned parking areas, and submerged lands, that are currently zoned Waterfront Special Use Zone (WSUZ) to a combination of both B-6 and the Eastern Waterfront Port Zone (WSUZ), as well as associated zoning and site plan ordinance text changes, and an amendment to the B-6 Building Height Overlay & Building Envelopes map.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

An application was submitted by CPB2 LLC for zoning map and text amendments for property at 58 Fore Street, the site of the Portland Company complex, and adjacent property. The property is currently zoned Waterfront Special Use Zone, and includes warehouses, storage buildings, and a marina with associated parking and laydown areas. The zones being applied for in place of WSUZ are the B-6 Eastern Waterfront Mixed Zone, and the Eastern Waterfront Port Zone, so that the applicant can subsequently apply for a site plan and subdivision approval for a range of marine-related, residential and commercial uses. The application was heard by the Planning Board on October 21st, November 18th, February 10th, and February 24th.

III. INTENDED RESULT

58 Fore Street is currently zoned Waterfront Special Use Zone (WSUZ). CPB2 LLC applied in August of 2014 for zoning map and text amendments. The intended result of these amendments is to have 58 Fore Street be appropriately zoned to foster both a dedicated waterfront zone, and a mixed-use upland zone, allowing a range of residential and commercial uses.

IV. COUNCIL GOAL ADDRESSED

In both the increased potential for housing development and the range of commercial uses that are allowed in the B-6 zone, the proposed map amendment addresses both housing and economic development goals. Specifically, this change addresses the following Council goals, while retaining a viable waterfront zone. Specifically, this change addresses the following Council goals:

Promote Housing Availability: Provide increased availability in all segments of the housing market while insuring that there is suitable balance of housing opportunities among those sectors.

Economic Development: Promote economic development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

V. FINANCIAL IMPACT

There are no known municipal financial impacts associated with this amendment.

VI. STAFF ANALYSIS

The review found the proposed text amendments consistent with the Comprehensive Plan.

VII. RECOMMENDATION

On February 24, 2015, the Planning Board voted unanimously, 6-0 (Boepple absent) that the proposed map amendments from WSUZ to B-6 and the Eastern Waterfront Port Zone, the amendment to the B-6 Building Height Overlay & Building Envelopes map, and the text amendments to the WSUZ, B-6, EWPZ, Site Plan and Shoreland Overlay zone for 58 Fore Street are consistent with the Comprehensive Plan and recommended adoption of the proposed amendment to the City Council.

VIII. LIST ATTACHMENTS

1. Planning Board Report to City Council

Prepared by: Christine Grimando

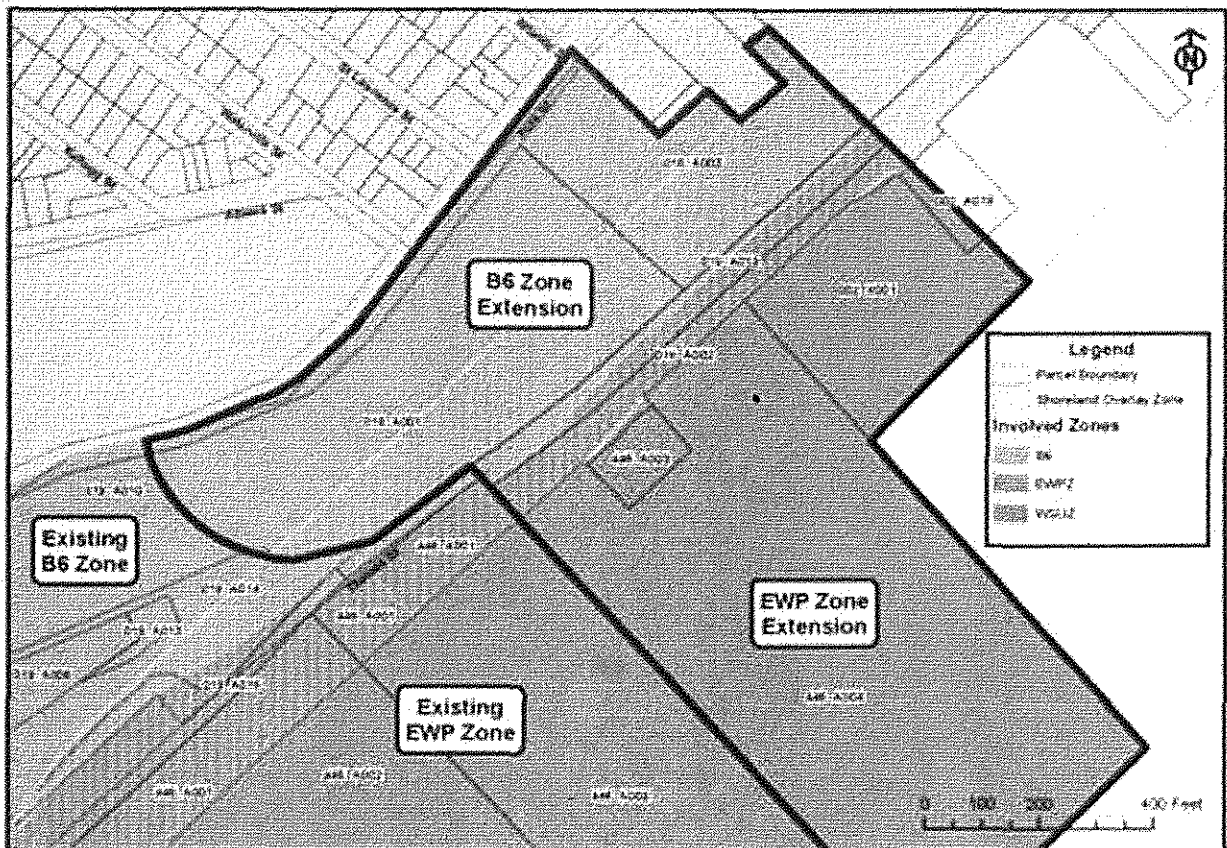
Date: March 2, 2015

Amendment to Order No. 185-14/15 prepared by Corporation Counsel

**AMENDMENT TO ZONING MAP
RE: 58 FORE STREET**

**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 and specifically rezoning the Waterfront Special Use Zone (WSUZ) which includes the property at 58 Fore Street (known as the Portland Company Complex) and adjoining parcels along the waterfront, to the B-6 Eastern Waterfront Mixed Zone and the Eastern Waterfront Port Zone (EWPZ) and eliminating the WSUZ zone as depicted in the following area map; and



BE IT FURTHER ORDERED, that the B-6 Height Overlay & Building Envelopes Map be and hereby is amended by adopting the following map change amendment as depicted in the following area map.

**Amendment 1, Sec. 14-274. Affordable Housing to Order
No. 184-14/15 prepared by Corporation Counsel**

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

*That Chapter 14, Article III, Division 1, Section 48,
Division 15.1, Section 14-269 to 14-273, Division 17.5, Sections
301 to 301.1, and 303, Division 18.7, Sections 320.5 to 320.10,
Division 22, Section 369.5, Division 26, Section 449, and
Article V, Section 524 of the Portland City Code are hereby
amended to read as follows:*

DIVISION 1. GENERALLY

...

Sec. 14-48. Establishment of zones.

In order to carry out the provisions of this article, the
city is hereby divided into the following classes of zones:

...
...

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

...

Sec. 14-269. Permitted uses.

The following uses are permitted in the B-6 zone:

(a) *Commercial:*

1. Professional, business and general offices;
2. Restaurants and other eating and drinking establishments, except that no drinking establishments as defined in section 14-47 that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street, and provided that restaurants that are located east of Waterville Street and within fifty feet (50') of Fore Street must meet the following requirements:

- a. The hours of operation shall be limited to between 5:00 a.m. and 11:00 p.m. each day.
- b. Food service and consumption are the primary function of the restaurant;
- 3. Hotels and inns limited to no more than 150 rooms;
- 4. Craft and specialty shops, including the on-premises production of handcrafted goods;
- 5. Retail and retail service establishments, excluding those with gas pumps;
- 6. Theatres;
- 7. Banking services, excluding vehicular drive-up services;

Editor's Note: Drive-up banking facilities located in the interior of parking structures are allowed as a conditional use subject to the criteria outlined below in the conditional use provisions of this section.

- 8. Cabinet and carpentry shops;
- 9. Personal services;
- 10. Business services;
- 11. Offices of business trades people;
- 12. Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments;
- 13. Telecommunication and broadcast and receiving facilities, except as prohibited in section 14-271 (prohibited uses);

In addition, building mounted telecommunications antennas, discs, transmitting and receiving equipment and the like shall adhere to the following criteria. Such roof-mounted equipment shall be:

- a. No taller than 15 feet above the highest structural steel of the building roof; and
 - b. Set back no less than 15 feet from the building perimeter; and
 - c. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.
- 14. Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output, except that no brew pubs or microbreweries that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street.
 - 15. Electronic data storage;
 - 16. Marine products wholesaling and retailing;
 - 17. Harbor and marine supplies and services, chandlery and ship supply;
 - 18. Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels;
 - 19. Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.
 - 20. Printing establishments.

(b) *Residential:*

- 1. Attached dwellings including row houses, two-family and multifamily dwellings;
- 2. Handicapped family units;
- 3. Combined living/working spaces, including but not limited to artist residences with studio space;

4. Mixed use residential and commercial structures.

(c) *Public:*

1. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures;
2. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces;
3. Pedestrian and multi-use trails;

(d) *Other:*

1. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians;
2. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, except that parking lots shall not be considered a permitted accessory use and such parking is subject to the conditional use section of the B-6 zone.
3. Health clubs, martial arts and meditation facilities.
4. Intermodal transportation facilities.
5. Nursery schools, kindergartens, and daycare facilities or home babysitting services.
6. Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
7. Educational facilities.
8. Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area

utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.

9. Museums and art galleries.

- (e) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

...

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

...

Sec. 14-272. Dimensional requirements.

In addition to the provisions of article III, division 25 of this Code, lots in the B-6 Eastern Waterfront Business Zone shall meet the following requirements:

...

3. View Corridors and Key Street Wall Development

Notwithstanding sections 1. and 2. above, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes shown on the *B6 Building Height Overlay & Building Envelopes map*. Buildings located in the easternmost key building envelope, shall not have a maximum front setback, and shall not be required to build to the key building envelope perimeter. Parking structures and the buildings for public transportation facilities may, however, set back beyond the key building envelopes (toward the interior of blocks), but may not occupy the land between the key building envelope and the street right of way.

- (d) *Minimum length of building wall required to be located along street frontage of lot (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to this requirement).*

- i. 70% of lot street frontage; or
 - ii. 25% of building perimeter,
 - iii. For buildings fronting on two or more streets, the minimum building wall on one street may be decreased so long as the frontage is proportionally increased on other streets in so far that the building wall on the secondary street is not reduced to less than 25 feet.
- (e) *Maximum lot coverage:* One hundred (100) percent.
- (f) *Maximum building height:* 65 feet, or as otherwise governed by a Building Height Overlay map (for example, in the Eastern Waterfront). Building Height Overlay maps are found in the Planning and Development Department Office.
- (g) *Minimum building height:* No new construction of any building shall have less than three (3) floors of habitable space above the average adjacent grade within twenty five (25) feet of any public street (except that buildings located in the easternmost key building envelope, as shown on the *B6 Building Height Overlay & Building Envelopes map*, shall not be subject to a minimum building height).

...

Sec. 14-273. Performance standards.

All new development in the B-6 Eastern Waterfront Business Zone shall comply with the following standards:

...

- (b) *Noise:*

...

4. Exemptions:

- a. Noises created by construction and maintenance activities between 7:00 a.m. and

10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section. Construction activities on a site abutting any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.

b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:

- i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
- ii. Traffic noise on public roads or noise created by airplanes and railroads.
- iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.
- iv. Emergency construction or repair work by public utilities, at any hour.
- v. Noise created by any temporary activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, fireworks displays, festivals, events and concerts.

...

DIVISION 17.5. EASTERN WATERFRONT PORT ZONE*

....

Sec. 14-274. Affordable Housing

Amendments to Division 30 related to affordable housing that are enacted prior to April 1, 2016 shall apply to any site

plan review application on the Portland Company (58 Fore Street)
portion of this zone received after April 1, 2015.

...

Sec.14-301. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-300.1. (no adverse impact on marine uses), the following uses are permitted in the Eastern Waterfront Port Zone:

...

(b) *Marine commercial:*

1. Transient and long-term commercial berthing;
2. Marine-related warehousing;
3. Marine related construction, manufacturing, fabrication, salvage and repair;
4. Storage and repair of fishing equipment;
5. Ship and other marine vessel construction, building, servicing, and repair;
6. Boat and marine equipment storage;
7. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;
8. Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis;
9. Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries;
10. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;

11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26;
12. Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.

...

(e) *Other:*

1. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
2. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

Sec. 14-301.1. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the Eastern Waterfront Port Zone, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority, and provided further that in addition to the provision of section 14-474(c)(2) such uses will not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and meet all additional standards set forth below:

...

2. Conditional uses:

a. *Marine:*

- i. Marine products, wholesaling and retailing;
- ii. Ice-making services;

- iii. Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight;
- iv. Marine educational facilities;
- v. Seafood retailing, wholesaling, packaging and shipping;
- vi. Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304;
- vii. Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing;
- viii. Fish byproducts processing, provided that:
 - a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
 - b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-252); and
 - c. The processing other material wastes or

byproducts shall not be deemed a lawful accessory use Permitted herein.

...

Sec. 14-303. Dimensional requirements.

...

4. Setback from pier line: Notwithstanding the above requirements, a minimum setback of twenty-five(25) feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 14-301(b)(12), may be located up to five (5) feet from the edge of any pier, wharf or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other nonwater-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

...

DIVISION 18.7. RESERVED

...

DIVISION 22. SIGNS

. . .

Sec. 14-369.5. Tables.

- (a) *Table 1. Permitted sign types by zone.*

Note: The following legend applies for Table 1 below:

- A. Allowed, no permit required;
- B. Allowed, permit required;
- C. Allowed, subject to licensing and permit required;
- D. Prohibited;
- E. Not Applicable

Parenthetical letters, i.e. (a), refer to the notes

provided at the end of Table 1.

. . .

	I-M, I-Ma, I-Mb Industrial	I-H, I-Hb Industrial	Eastern Waterfront Port Waterfront Central Port Development	Waterfront
Freestanding	B	B	B	B
In general (b)				
Residential I	A	A	A	A
Residential (d)	A	A	A	A
Temporary/ Portable (b)	D/D	B/D	D	D
Building	B	B	B	B
Commercial				
Banner				
Building	A	A	A	A
Marker (f)				
Awning	B	B	B	B
Identification (e)	A	A	A	A
Incidental (d)	A	A	A	A
Marquee (g)	B	B	B	B
Projecting	B	B	B	B
Residential (b)	A	A	A	A
Roof	D	D	D	D
Roof Integral	D	D	D	D
Suspended (g)	B	B	B	B
Temporary (h)	B	B	B	B
Wall	B	B	B	B
Window (I)	A	A	A	A
Miscellaneous	A	A	A	A
Community,				
Cultural Banner				
Directory (j)	A	A	A	A
Flag (k)	A	A	A	A
Pennant	D	D	D	D
Portable-in				
City right-of-way (A-frame)	D	D	C	D

. . .

Contents of Table 2:

2.1 Sign Regulations for R-1-R-7, IR-1-IR-3 Residential Zones

2.2 Sign Regulations for Institutional Uses in Residential Zones

- 2.3 Sign Regulations for RP Residence-Professional Zone
- 2.4 Sign Regulations for ROS/RPZ Open Space Zones & Signs in all Municipal Parks
- 2.5 Sign Regulations for B-1 Neighborhood Business Zone - Single Tenant Lots
- 2.6 Sign Regulations for B-2 Regional Business Zone - Single Tenant Lots
- 2.7 Sign Regulations for AB Airport Business Zone - Single Tenant Lots
- 2.8 Sign Regulations for B-3 Downtown Business, B-5 Urban Commercial, B-6 and B-7 Mixed Use Urban, WC Waterfront Central, and EWP, Eastern Waterfront Port Zones
- 2.9 Sign Regulations for IB Island Business Zone - Single Tenant Lots
- 2.10 Sign Regulations for B-4 Commercial Corridor Zone - Single Tenant Lots
- 2.11 Sign Regulations for OP Office Park Zones
- 2.12 Sign Regulations for I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb Industrial and WPD Waterfront Port Development Zones
- 2.13 Sign Regulations for B-1, B-2, AB, IB, and B-4 Business Zones - Multi-Tenant Lots
- 2.14 Sign Regulations for Gas Stations - All Zones Where Permitted

. . .

TABLE 2.8 SIGN REGULATIONS BY ZONE

Downtown Business (B-3), Urban Commercial (B-5), and Waterfront Central (WC) Zones

. . .

DIVISION 26. SHORELAND REGULATIONS

. . .

Sec. 14-449. Land use standards.

All land uses and land use activities subject to this division shall conform to the following standards and regulations, as applicable:

(a) *Principal and accessory structures:*

1. All principal and accessory structures shall be set back at least seventy-five (75) feet horizontal distance, from the normal high water line of water bodies, the upland edge of a wetland or associated tributary streams within a shoreland zone, except that in the following zones the setback shall be as indicated below:
 - a. B-3, B-5, B-5b, I-L (south and east of I-295), and I-M (south and east of I-295): Twenty-five (25) feet.
 - b. W-C, W-PD, I-B, EWP: No setback required. Pier edge setbacks apply in EWP (Sec. 14-303(c)(4)), W-C (Sec. 14-310(d)(4)), and W-PD (Sec. 320.2(c)).

For the principle structures, setback measurements shall be taken from the top of a costal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant "Classification of Coastal Bluffs", and published in the most recent Coastal Bluff Map as further referenced on the Zoning Map.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28)

feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, EWP, W-C, W-PD, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

. . . .

- (b) *Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line of a water body or within a wetland:*

. . . .

- 6. Except in the W-C, EWP, W-PD, and I-B zones, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity;

. . . .

- (c) *Clearing or removal of vegetation:*

1. In all shoreland areas in resource protection zones, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.
2. The clearing or removal of vegetation standards of this section shall not apply to the following zones: EWP, WCZ, WPD, B-3, B-5, B-5b, B-6, B-7, I-L (south and east of I-295) and I-M zones (south and east of I-295).

. . . .

(j) *Roads and driveways:*

1. Roads and driveways shall be setback a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone, except:
 - a. In the EWP, WC, WPD, B-3, B-5, B-5b, I-L (south and east of I-295) and I-M (south and east of I-295) roads and driveways shall be setback as established for structures in those zones; as specified in Sec. 14-449(a)1.
 - b. Where the planning board determines that no other reasonable alternative exists. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts place so as to avoid sedimentation of the water body, tributary stream or wetland.

. . .

(k) *Parking areas:* Parking areas shall be set back a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone except:

1. In the EWP, WC, WPD, B-3, B-5, B-5b, I-L and I-M zones, parking setbacks shall be as established for structures in those zones; as specified in Sec. 14-449(a)1.

2. Parking setbacks in the S-P (stream protection) zones are as established in Division 26.7.

3. Where the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream, the board may reduce the parking setback requirement to no less than fifty (50) feet in the R-OS, and I-B zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.

. . .

Sec. 14-524. Site plan review processes.

Sec. 14-526. Site plan 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

**Amendment 2 Sec. 14-498 Public Access to Order No. 184-
14/15 prepared by Corporation Counsel**

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

*That Chapter 14, Article III, Division 1, Section 48,
Division 15.1, Section 14-269 to 14-273, Division 17.5, Sections
301 to 301.1, and 303, Division 18.7, Sections 320.5 to 320.10,
Division 22, Section 369.5, Division 26, Section 449, and
Article V, Section 524 of the Portland City Code are hereby
amended to read as follows:*

DIVISION 1. GENERALLY

...

Sec. 14-48. Establishment of zones.

In order to carry out the provisions of this article, the
city is hereby divided into the following classes of zones:

. . .
. . .

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

...

Sec. 14-269. Permitted uses.

The following uses are permitted in the B-6 zone:

(a) *Commercial:*

1. Professional, business and general offices;
2. Restaurants and other eating and drinking establishments, except that no drinking establishments as defined in section 14-47 that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street, and provided that restaurants that are located east of Waterville Street and within fifty feet (50') of Fore Street must meet the following requirements:

included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

- (i) B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual. New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.

...

a. The hours of operation shall be limited to between 5:00 a.m. and 11:00 p.m. each day.

b. Food service and consumption are the primary function of the restaurant;

3. Hotels and inns limited to no more than 150 rooms;
4. Craft and specialty shops, including the on-premises production of handcrafted goods;
5. Retail and retail service establishments, excluding those with gas pumps;
6. Theatres;
7. Banking services, excluding vehicular drive-up services;

Editor's Note: Drive-up banking facilities located in the interior of parking structures are allowed as a conditional use subject to the criteria outlined below in the conditional use provisions of this section.

8. Cabinet and carpentry shops;
9. Personal services;
10. Business services;
11. Offices of business trades people;
12. Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments;
13. Telecommunication and broadcast and receiving facilities, except as prohibited in section 14-271 (prohibited uses);

In addition, building mounted telecommunications antennas, discs, transmitting and receiving equipment and the like shall adhere to the following criteria. Such roof-mounted equipment shall be:

- a. No taller than 15 feet above the highest structural steel of the building roof; and
 - b. Set back no less than 15 feet from the building perimeter; and
 - c. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.
- 14. Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output, except that no brew pubs or microbreweries that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street.
 - 15. Electronic data storage;
 - 16. Marine products wholesaling and retailing;
 - 17. Harbor and marine supplies and services, chandlery and ship supply;
 - 18. Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels;
 - 19. Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.
 - 20. Printing establishments.

(b) *Residential:*

- 1. Attached dwellings including row houses, two-family and multifamily dwellings;
- 2. Handicapped family units;
- 3. Combined living/working spaces, including but not limited to artist residences with studio space;

4. Mixed use residential and commercial structures.

(c) *Public:*

1. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures;
2. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces;
3. Pedestrian and multi-use trails;

(d) *Other:*

1. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians;
2. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, except that parking lots shall not be considered a permitted accessory use and such parking is subject to the conditional use section of the B-6 zone.
3. Health clubs, martial arts and meditation facilities.
4. Intermodal transportation facilities.
5. Nursery schools, kindergartens, and daycare facilities or home babysitting services.
6. Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
7. Educational facilities.
8. Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area

utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.

9. Museums and art galleries.

- (e) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

...

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

...

Sec. 14-272. Dimensional requirements.

In addition to the provisions of article III, division 25 of this Code, lots in the B-6 Eastern Waterfront Business Zone shall meet the following requirements:

...

3. View Corridors and Key Street Wall Development

Notwithstanding sections 1. and 2. above, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes shown on the *B6 Building Height Overlay & Building Envelopes map*. Buildings located in the easternmost key building envelope, shall not have a maximum front setback, and shall not be required to build to the key building envelope perimeter. Parking structures and the buildings for public transportation facilities may, however, set back beyond the key building envelopes (toward the interior of blocks), but may not occupy the land between the key building envelope and the street right of way.

- (d) *Minimum length of building wall required to be located along street frontage of lot (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to this requirement).*

- i. 70% of lot street frontage; or
 - ii. 25% of building perimeter,
 - iii. For buildings fronting on two or more streets, the minimum building wall on one street may be decreased so long as the frontage is proportionally increased on other streets in so far that the building wall on the secondary street is not reduced to less than 25 feet.
- (e) *Maximum lot coverage:* One hundred (100) percent.
- (f) *Maximum building height:* 65 feet, or as otherwise governed by a Building Height Overlay map (for example, in the Eastern Waterfront). Building Height Overlay maps are found in the Planning and Development Department Office.
- (g) *Minimum building height:* No new construction of any building shall have less than three (3) floors of habitable space above the average adjacent grade within twenty five (25) feet of any public street (except that buildings located in the easternmost key building envelope, as shown on the *B6 Building Height Overlay & Building Envelopes map*, shall not be subject to a minimum building height).

...

Sec. 14-273. Performance standards.

All new development in the B-6 Eastern Waterfront Business Zone shall comply with the following standards:

...

- (b) *Noise:*

...

4. Exemptions:

- a. Noises created by construction and maintenance activities between 7:00 a.m. and

10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section. Construction activities on a site abutting any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.

b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:

- i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
- ii. Traffic noise on public roads or noise created by airplanes and railroads.
- iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.
- iv. Emergency construction or repair work by public utilities, at any hour.
- v. Noise created by any temporary activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, fireworks displays, festivals, events and concerts.

...

DIVISION 17.5. EASTERN WATERFRONT PORT ZONE*

....

Sec.14-301. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-300.1. (no adverse impact on marine uses), the following uses are permitted in the Eastern

Waterfront Port Zone:

...

(b) *Marine commercial:*

1. Transient and long-term commercial berthing;
2. Marine-related warehousing;
3. Marine related construction, manufacturing, fabrication, salvage and repair;
4. Storage and repair of fishing equipment;
5. Ship and other marine vessel construction, building, servicing, and repair;
6. Boat and marine equipment storage;
7. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;
8. Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis;
9. Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries;
10. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;
11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26;
12. Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood

brokers.

...

(e) *Other:*

1. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
2. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

Sec. 14-301.1. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the Eastern Waterfront Port Zone, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority, and provided further that in addition to the provision of section 14-474(c)(2) such uses will not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and meet all additional standards set forth below:

...

2. Conditional uses:

a. *Marine:*

- i. Marine products, wholesaling and retailing;
- ii. Ice-making services;
- iii. Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight;
- iv. Marine educational facilities;
- v. Seafood retailing, wholesaling, packaging and shipping;

- vi. Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304;
- vii. Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing;
- viii. Fish byproducts processing, provided that:
 - a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
 - b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-252); and
 - c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.

...

Sec. 14-303. Dimensional requirements.

...

- 4. Setback from pier line: Notwithstanding the above requirements, a minimum setback of twenty-five(25) feet

from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 14-301(b)(12), may be located up to five (5) feet from the edge of any pier, wharf or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other nonwater-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

...

DIVISION 18.7. RESERVED

...

DIVISION 22. SIGNS

. . .

Sec. 14-369.5. Tables.

(a) *Table 1. Permitted sign types by zone.*

Note: The following legend applies for Table 1 below:

- A. Allowed, no permit required;
- B. Allowed, permit required;
- C. Allowed, subject to licensing and permit required;
- D. Prohibited;
- E. Not Applicable

Parenthetical letters, i.e. (a), refer to the notes provided at the end of Table 1.

. . .

		Eastern	
		Waterfront	
		Port	
		Waterfront	
		Central	Waterfront
I-M, I-Ma,			
I-Mb	I-H, I-Hb		Port
Industrial	Industrial		Development

Freestanding	B	B	B	B
In general (b)				
Residential I	A	A	A	A
Residential (d)	A	A	A	A
Temporary/ Portable (b)	D/D	B/D	D	D
Building	B	B	B	B
Commercial				
Banner				
Building	A	A	A	A
Marker (f)				
Awning	B	B	B	B
Identification (e)	A	A	A	A
Incidental (d)	A	A	A	A
Marquee (g)	B	B	B	B
Projecting	B	B	B	B
Residential (b)	A	A	A	A
Roof	D	D	D	D
Roof Integral	D	D	D	D
Suspended (g)	B	B	B	B
Temporary (h)	B	B	B	B
Wall	B	B	B	B
Window (I)	A	A	A	A
Miscellaneous	A	A	A	A
Community, Cultural Banner				
Directory (j)	A	A	A	A
Flag (k)	A	A	A	A
Pennant	D	D	D	D
Portable-in City right-of-way (A-frame)	D	D	C	D

. . .

Contents of Table 2:

2.1 Sign Regulations for R-1-R-7, IR-1-IR-3 Residential Zones

2.2 Sign Regulations for Institutional Uses in Residential Zones

2.3 Sign Regulations for RP Residence-Professional Zone

2.4 Sign Regulations for ROS/RPZ Open Space Zones & Signs in all Municipal Parks

2.5 Sign Regulations for B-1 Neighborhood Business Zone - Single Tenant Lots

2.6 Sign Regulations for B-2 Regional Business Zone — Single Tenant Lots

2.7 Sign Regulations for AB Airport Business Zone — Single Tenant Lots

2.8 Sign Regulations for B-3 Downtown Business, B-5 Urban Commercial, B-6 and B-7 Mixed Use Urban, WC Waterfront Central, and EWP, Eastern Waterfront Port Zones

2.9 Sign Regulations for IB Island Business Zone — Single Tenant Lots

2.10 Sign Regulations for B-4 Commercial Corridor Zone — Single Tenant Lots

2.11 Sign Regulations for OP Office Park Zones

2.12 Sign Regulations for I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb Industrial and WPD Waterfront Port Development Zones

2.13 Sign Regulations for B-1, B-2, AB, IB, and B-4 Business Zones — Multi-Tenant Lots

2.14 Sign Regulations for Gas Stations — All Zones Where Permitted

. . .

TABLE 2.8 SIGN REGULATIONS BY ZONE

Downtown Business (B-3), Urban Commercial (B-5), and Waterfront Central (WC) Zones

. . .

DIVISION 26. SHORELAND REGULATIONS

. . .

Sec. 14-449. Land use standards.

All land uses and land use activities subject to this division shall conform to the following standards and regulations, as applicable:

(a) *Principal and accessory structures:*

1. All principal and accessory structures shall be set back at least seventy-five (75) feet horizontal distance, from the normal high water line of water bodies, the upland edge of a wetland or associated tributary streams within a shoreland zone, except that in the following zones the setback shall be as indicated below:
 - a. B-3, B-5, B-5b, I-L (south and east of I-295), and I-M (south and east of I-295): Twenty-five (25) feet.
 - b. W-C, W-PD, I-B, EWP: No setback required. Pier edge setbacks apply in EWP (Sec. 14-303(c)(4), W-C (Sec. 14-310(d)(4), and W-PD (Sec. 320.2(c)).

For the principle structures, setback measurements shall be taken from the top of a costal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant "Classification of Coastal Bluffs", and published in the most recent Coastal Bluff Map as further referenced on the Zoning Map.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28) feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent.

In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, EWP, W-C, W-PD, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

. . . .

- (b) *Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line of a water body or within a wetland:*

. . . .

6. Except in the W-C, EWP, W-PD, and I-B zones, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity;

. . . .

- (c) *Clearing or removal of vegetation:*

1. In all shoreland areas in resource protection zones, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.
2. The clearing or removal of vegetation standards of this section shall not apply to the following zones: EWP, WCZ, WPD, B-3, B-5, B-5b, B-6, B-7, I-L (south and east of I-295) and I-M zones

(south and east of I-295).

. . .

(j) *Roads and driveways:*

1. Roads and driveways shall be setback a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone, except:

- a. In the EWP, WC, WPD, B-3, B-5, B-5b, I-L (south and east of I-295) and I-M (south and east of I-295) roads and driveways shall be setback as established for structures in those zones; as specified in Sec. 14-449(a)1.

- b. Where the planning board determines that no other reasonable alternative exists. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts place so as to avoid sedimentation of the water body, tributary stream or wetland.

. . .

- (k) *Parking areas:* Parking areas shall be set back a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone except:

1. In the EWP, WC, WPD, B-3, B-5, B-5b, I-L and

I-M zones, parking setbacks shall be as established for structures in those zones; as specified in Sec. 14-449(a)1.

2. Parking setbacks in the S-P (stream protection) zones are as established in Division 26.7.

3. Where the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream, the board may reduce the parking setback requirement to no less than fifty (50) feet in the R-OS, and I-B zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.

. . .

Sec. 14-498. Technical and design standards.

...

(b) *Street plan:*

...

2. The proposed street layout shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding acreage tracts.

In the event a development proposal includes internal circulation through private ways, a primary circulation system shall be provided for public vehicular and pedestrian ingress and egress to public infrastructure, such as trails and public streets, as may be determined by the Planning Board in review of a Master Development Plan or Level III site plan application.

. . .

**Amendment 3 Sec. 14-524 Requirement for Master
Development Plan in B-6 to Order No. 184-14/15 prepared
by Corporation Counsel**

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

*That Chapter 14, Article III, Division 1, Section 48,
Division 15.1, Section 14-269 to 14-273, Division 17.5, Sections
301 to 301.1, and 303, Division 18.7, Sections 320.5 to 320.10,
Division 22, Section 369.5, Division 26, Section 449, and
Article V, Section 524 of the Portland City Code are hereby
amended to read as follows:*

DIVISION 1. GENERALLY

...

Sec. 14-48. Establishment of zones.

In order to carry out the provisions of this article, the
city is hereby divided into the following classes of zones:

...
...

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

...

Sec. 14-269. Permitted uses.

The following uses are permitted in the B-6 zone:

(a) *Commercial:*

1. Professional, business and general offices;
2. Restaurants and other eating and drinking
establishments, except that no drinking
establishments as defined in section 14-47 that
are located east of Waterville Street shall be
permitted within fifty feet (50') of Fore Street,
and provided that restaurants that are located
east of Waterville Street and within fifty feet
(50') of Fore Street must meet the following

Sec. 14-524. Site plan review processes.

Sec. 14-526. Site plan 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) B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual. New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.

...

requirements:

a. The hours of operation shall be limited to between 5:00 a.m. and 11:00 p.m. each day.

b. Food service and consumption are the primary function of the restaurant;

3. Hotels and inns limited to no more than 150 rooms;
4. Craft and specialty shops, including the on-premises production of handcrafted goods;
5. Retail and retail service establishments, excluding those with gas pumps;
6. Theatres;
7. Banking services, excluding vehicular drive-up services;

Editor's Note: Drive-up banking facilities located in the interior of parking structures are allowed as a conditional use subject to the criteria outlined below in the conditional use provisions of this section.

8. Cabinet and carpentry shops;
9. Personal services;
10. Business services;
11. Offices of business trades people;
12. Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments;
13. Telecommunication and broadcast and receiving facilities, except as prohibited in section 14-271 (prohibited uses);

In addition, building mounted telecommunications antennas, discs, transmitting and receiving equipment and the like shall adhere to the following criteria. Such roof-mounted equipment shall be:

- a. No taller than 15 feet above the highest structural steel of the building roof; and
 - b. Set back no less than 15 feet from the building perimeter; and
 - c. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.
- 14. Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output, except that no brew pubs or microbreweries that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street.
 - 15. Electronic data storage;
 - 16. Marine products wholesaling and retailing;
 - 17. Harbor and marine supplies and services, chandlery and ship supply;
 - 18. Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels;
 - 19. Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.
 - 20. Printing establishments.

(b) *Residential:*

- 1. Attached dwellings including row houses, two-family and multifamily dwellings;
- 2. Handicapped family units;
- 3. Combined living/working spaces, including but not

limited to artist residences with studio space;

4. Mixed use residential and commercial structures.

(c) *Public:*

1. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures;
2. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces;
3. Pedestrian and multi-use trails;

(d) *Other:*

1. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians;
2. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, except that parking lots shall not be considered a permitted accessory use and such parking is subject to the conditional use section of the B-6 zone.
3. Health clubs, martial arts and meditation facilities.
4. Intermodal transportation facilities.
5. Nursery schools, kindergartens, and daycare facilities or home babysitting services.
6. Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
7. Educational facilities.
8. Temporary events, provided that all such events on a lot do not exceed a combined total of (60)

days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.

9. Museums and art galleries.

(e) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

...

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

...

Sec. 14-272. Dimensional requirements.

In addition to the provisions of article III, division 25 of this Code, lots in the B-6 Eastern Waterfront Business Zone shall meet the following requirements:

...

3. View Corridors and Key Street Wall Development

Notwithstanding sections 1. and 2. above, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes shown on the *B6 Building Height Overlay & Building Envelopes map*. Buildings located in the easternmost key building envelope, shall not have a maximum front setback, and shall not be required to build to the key building envelope perimeter. Parking structures and the buildings for public transportation facilities may, however, set back beyond the key building envelopes (toward the interior of blocks), but may not occupy the land between the key building envelope and the street right of way.

(d) *Minimum length of building wall required to be located along street frontage of lot (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to this*

requirement).

- i. 70% of lot street frontage; or
 - ii. 25% of building perimeter,
 - iii. For buildings fronting on two or more streets, the minimum building wall on one street may be decreased so long as the frontage is proportionally increased on other streets in so far that the building wall on the secondary street is not reduced to less than 25 feet.
- (e) *Maximum lot coverage:* One hundred (100) percent.
- (f) *Maximum building height:* 65 feet, or as otherwise governed by a Building Height Overlay map (for example, in the Eastern Waterfront). Building Height Overlay maps are found in the Planning and Development Department Office.
- (g) *Minimum building height:* No new construction of any building shall have less than three (3) floors of habitable space above the average adjacent grade within twenty five (25) feet of any public street (except that buildings located in the easternmost key building envelope, as shown on the *B6 Building Height Overlay & Building Envelopes map*, shall not be subject to a minimum building height).

...

Sec. 14-273. Performance standards.

All new development in the B-6 Eastern Waterfront Business Zone shall comply with the following standards:

...

- (b) *Noise:*

...

4. *Exemptions:*

- a. Noises created by construction and

maintenance activities between 7:00 a.m. and 10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section. Construction activities on a site abutting any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.

b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:

- i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
- ii. Traffic noise on public roads or noise created by airplanes and railroads.
- iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.
- iv. Emergency construction or repair work by public utilities, at any hour.
- v. Noise created by any temporary activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, fireworks displays, festivals, events and concerts.

...

DIVISION 17.5. EASTERN WATERFRONT PORT ZONE*

....

Sec.14-301. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-300.1. (no adverse impact on marine

uses), the following uses are permitted in the Eastern Waterfront Port Zone:

...

(b) *Marine commercial:*

1. Transient and long-term commercial berthing;
2. Marine-related warehousing;
3. Marine related construction, manufacturing, fabrication, salvage and repair;
4. Storage and repair of fishing equipment;
5. Ship and other marine vessel construction, building, servicing, and repair;
6. Boat and marine equipment storage;
7. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;
8. Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis;
9. Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries;
10. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;
11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26;
12. Marine office, including but not limited to offices of owners of marinas, wharves or their

agents, and naval architects, and seafood brokers.

...

(e) *Other:*

1. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
2. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

Sec. 14-301.1. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the Eastern Waterfront Port Zone, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority, and provided further that in addition to the provision of section 14-474(c)(2) such uses will not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and meet all additional standards set forth below:

...

2. Conditional uses:

a. *Marine:*

- i. Marine products, wholesaling and retailing;
- ii. Ice-making services;
- iii. Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight;
- iv. Marine educational facilities;
- v. Seafood retailing, wholesaling, packaging

and shipping;

- vi. Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304;
- vii. Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing;
- viii. Fish byproducts processing, provided that:
 - a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
 - b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-252); and
 - c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.

...

Sec. 14-303. Dimensional requirements.

...

- 4. Setback from pier line: Notwithstanding the above

requirements, a minimum setback of twenty-five(25) feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 14-301(b)(12), may be located up to five (5) feet from the edge of any pier, wharf or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other nonwater-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

...

DIVISION 18.7. RESERVED

...

DIVISION 22. SIGNS

. . .

Sec. 14-369.5. Tables.

(a) Table 1. Permitted sign types by zone.

Note: The following legend applies for Table 1 below:

- A. Allowed, no permit required;
- B. Allowed, permit required;
- C. Allowed, subject to licensing and permit required;
- D. Prohibited;
- E. Not Applicable

Parenthetical letters, i.e. (a), refer to the notes provided at the end of Table 1.

. . .

		Eastern	
		Waterfront	
		Port	
		Waterfront	
I-M, I-Ma,		Central	Waterfront
I-Mb	I-H, I-Hb		Port
Industrial	Industrial		Development

Freestanding	B	B	B	B
In general (b)				
Residential I	A	A	A	A
Residential (d)	A	A	A	A
Temporary/ Portable (b)	D/D	B/D	D	D
Building	B	B	B	B
Commercial				
Banner				
Building	A	A	A	A
Marker (f)				
Awning	B	B	B	B
Identification (e)	A	A	A	A
Incidental (d)	A	A	A	A
Marquee (g)	B	B	B	B
Projecting	B	B	B	B
Residential (b)	A	A	A	A
Roof	D	D	D	D
Roof Integral	D	D	D	D
Suspended (g)	B	B	B	B
Temporary (h)	B	B	B	B
Wall	B	B	B	B
Window (I)	A	A	A	A
Miscellaneous	A	A	A	A
Community, Cultural Banner				
Directory (j)	A	A	A	A
Flag (k)	A	A	A	A
Pennant	D	D	D	D
Portable-in City right-of-way (A-frame)	D	D	C	D

. . .

Contents of Table 2:

2.1 Sign Regulations for R-1-R-7, IR-1-IR-3 Residential Zones

2.2 Sign Regulations for Institutional Uses in Residential Zones

2.3 Sign Regulations for RP Residence-Professional Zone

2.4 Sign Regulations for ROS/RPZ Open Space Zones & Signs in all Municipal Parks

2.5 Sign Regulations for B-1 Neighborhood Business Zone - Single Tenant Lots

2.6 Sign Regulations for B-2 Regional Business Zone - Single Tenant Lots

2.7 Sign Regulations for AB Airport Business Zone - Single Tenant Lots

2.8 Sign Regulations for B-3 Downtown Business, B-5 Urban Commercial, B-6 and B-7 Mixed Use Urban, WC Waterfront Central, and EWP, Eastern Waterfront Port Zones

2.9 Sign Regulations for IB Island Business Zone - Single Tenant Lots

2.10 Sign Regulations for B-4 Commercial Corridor Zone - Single Tenant Lots

2.11 Sign Regulations for OP Office Park Zones

2.12 Sign Regulations for I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb Industrial and WPD Waterfront Port Development Zones

2.13 Sign Regulations for B-1, B-2, AB, IB, and B-4 Business Zones - Multi-Tenant Lots

2.14 Sign Regulations for Gas Stations - All Zones Where Permitted

. . .

TABLE 2.8 SIGN REGULATIONS BY ZONE

Downtown Business (B-3), Urban Commercial (B-5), and Waterfront Central (WC) Zones

. . .

DIVISION 26. SHORELAND REGULATIONS

. . .

Sec. 14-449. Land use standards.

All land uses and land use activities subject to this division shall conform to the following standards and

regulations, as applicable:

(a) *Principal and accessory structures:*

1. All principal and accessory structures shall be set back at least seventy-five (75) feet horizontal distance, from the normal high water line of water bodies, the upland edge of a wetland or associated tributary streams within a shoreland zone, except that in the following zones the setback shall be as indicated below:
 - a. B-3, B-5, B-5b, I-L (south and east of I-295), and I-M (south and east of I-295): Twenty-five (25) feet.
 - b. W-C, W-PD, I-B, EWP: No setback required. Pier edge setbacks apply in EWP (Sec. 14-303(c)(4)), W-C (Sec. 14-310(d)(4)), and W-PD (Sec. 320.2(c)).

For the principle structures, setback measurements shall be taken from the top of a costal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant "Classification of Coastal Bluffs", and published in the most recent Coastal Bluff Map as further referenced on the Zoning Map.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28) feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is

not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, EWP, W-C, W-PD, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

. . . .

- (b) *Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line of a water body or within a wetland:*

. . . .

6. Except in the W-C, EWP, W-PD, and I-B zones, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity;

. . . .

- (c) *Clearing or removal of vegetation:*

1. In all shoreland areas in resource protection zones, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.
2. The clearing or removal of vegetation standards of this section shall not apply to the following zones: EWP, WCZ, WPD, B-3, B-5, B-5b, B-6, B-7,

I-L (south and east of I-295) and I-M zones (south and east of I-295).

. . . .

(j) *Roads and driveways:*

1. Roads and driveways shall be setback a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone, except:

- a. In the EWP, WC, WPD, B-3, B-5, B-5b, I-L (south and east of I-295) and I-M (south and east of I-295) roads and driveways shall be setback as established for structures in those zones; as specified in Sec. 14-449(a)1.

- b. Where the planning board determines that no other reasonable alternative exists. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts place so as to avoid sedimentation of the water body, tributary stream or wetland.

. . . .

- (k) *Parking areas:* Parking areas shall be set back a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone except:

1. In the EWP, WC, WPD, B-3, B-5, B-5b, I-L and I-M zones, parking setbacks shall be as established for structures in those zones; as specified in Sec. 14-449(a)1.

2. Parking setbacks in the S-P (stream protection) zones are as established in Division 26.7.

3. Where the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream, the board may reduce the parking setback requirement to no less than fifty (50) feet in the R-OS, and I-B zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.

. . .
Sec. 14-524. Site plan review processes.

3. *Level II and level III site plan review:*

...

(v.) Master Development Plans in the B-6 Eastern Waterfront Mixed Zone. Proposed developments on three or more acres in common ownership shall be submitted and reviewed as a Master Development Plan. Projects shall not be segmented to avoid this requirement.

...

Sec. 14-526. Site plan 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) B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual. New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.

...

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Alex Jaegerman, Planning Division Director

DATE: March 4, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: Map and Text Amendments for 58 Fore Street

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading__ March 16th _____ Final Action __ April 6th _____

Can action be taken at a later date: X Yes _____ No (If no why not?)

PRESENTATION: Planning Board Chair Stuart O'Brien will make a five minute presentation.

I. SUMMARY OF ISSUE (Agenda Description)

The Planning Board recommends a zoning map amendment to change 58 Fore Street and immediately adjacent property, including a 50' wide strip of land owned by the State of Maine, two City-owned parking areas, and submerged lands, that are currently zoned Waterfront Special Use Zone (WSUZ) to a combination of both B-6 and the Eastern Waterfront Port Zone (WSUZ), as well as associated zoning and site plan ordinance text changes, and an amendment to the B-6 Building Height Overlay & Building Envelopes map.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

An application was submitted by CPB2 LLC for zoning map and text amendments for property at 58 Fore Street, the site of the Portland Company complex, and adjacent property. The property is currently zoned Waterfront Special Use Zone, and includes warehouses, storage buildings, and a marina with associated parking and laydown areas. The zones being applied for in place of WSUZ are the B-6 Eastern Waterfront Mixed Zone, and the Eastern Waterfront Port Zone, so that the applicant can subsequently apply for a site plan and subdivision approval for a range of marine-related, residential and commercial uses. The application was heard by the Planning Board on October 21st, November 18th, February 10th, and February 24th.

III. INTENDED RESULT

58 Fore Street is currently zoned Waterfront Special Use Zone (WSUZ). CPB2 LLC applied in August of 2014 for zoning map and text amendments. The intended result of these amendments is to have 58 Fore Street be appropriately zoned to foster both a dedicated waterfront zone, and a mixed-use upland zone, allowing a range of residential and commercial uses.

IV. COUNCIL GOAL ADDRESSED

In both the increased potential for housing development and the range of commercial uses that are allowed in the B-6 zone, the proposed map amendment addresses both housing and economic development goals. Specifically, this change addresses the following Council goals, while retaining a viable waterfront zone. Specifically, this change addresses the following Council goals:

Promote Housing Availability: Provide increased availability in all segments of the housing market while insuring that there is suitable balance of housing opportunities among those sectors.

Economic Development: Promote economic development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

V. FINANCIAL IMPACT

There are no known municipal financial impacts associated with this amendment.

VI. STAFF ANALYSIS

The review found the proposed text amendments consistent with the Comprehensive Plan.

VII. RECOMMENDATION

On February 24, 2015, the Planning Board voted unanimously, 6-0 (Boepple absent) that the proposed map amendments from WSUZ to B-6 and the Eastern Waterfront Port Zone, the amendment to the B-6 Building Height Overlay & Building Envelopes map, and the text amendments to the WSUZ, B-6, EWPZ, Site Plan and Shoreland Overlay zone for 58 Fore Street are consistent with the Comprehensive Plan and recommended adoption of the proposed amendment to the City Council.

VIII. LIST ATTACHMENTS

1. Planning Board Report to City Council

Prepared by: Christine Grimando

Date: March 2, 2015



CITY COUNCIL REPORT
from
PLANNING BOARD
PORTLAND, MAINE

Zoning Map and Text Amendments for 58 Fore Street
Applicant and Property Owner: CPB2 LLC

Submitted to: Portland City Council First Reading: March 16, 2015 Second Reading : April 6, 2015	Prepared by: Portland Planning Board Date: March 4, 2015 CBLs: 018 A001001, 018 A002, 018 A003, 018 A013, 019 A014, 446 A001, 446 A003, 446 A004, 002 X001, 002 A018
--	--

I. INTRODUCTION

This is an application for zoning map and text amendments for property at 58 Fore Street, the site of the Portland Company complex, and adjacent property, including a 50' wide strip of land owned by the State of Maine, two City-owned parking areas, and submerged lands. Established in 1846 for the manufacture of railroad equipment, the Portland Company continued and evolved as an industrial complex, manufacturing steel through 1978. It is now occupied by a variety of tenants. The property is currently zoned Waterfront Special Use Zone (WSUZ), and includes warehouses, storage buildings, and a marina with associated parking and laydown areas. The zones being applied for in place of WSUZ are the B-6 Eastern Waterfront Mixed Zone, and the Eastern Waterfront Port Zone (EWPZ). There are also proposed text amendments for the B-6, EWPZ and Shoreland Overlay zones, and an amendment to the B-6 Building Height Overlay & Building Envelopes map.

This application was reviewed by the Planning Board on the following dates: a workshop on October 21st, a workshop and site walk in November 18th, a third workshop on February 10th, and a public hearing on February 24th. Full application materials from the applicant submitted for prior workshops, as well as related historic and Comprehensive Plan documents, are stored here: <http://www.portlandmaine.gov/1341/58-Fore-Street-Portland-Company>

The Eastern Waterfront Building Height Study can be found at the above link or accessed directly here: <http://www.portlandmaine.gov/DocumentCenter/Home/View/3378>

Applicant: CPB2 LLC
Property Owner: CPB2 LLC
Consultants: Woodard & Curran & Bernstein Shur

A neighborhood meeting was held on September 16, and notes and documentation from that meeting are included in the original application materials, available on the project website or upon request from the Planning & Urban Development Department. Written public comment that has been received to date is included (Public Comment PC1 through PC 27).

II. CONTEXT

Current Uses. The property is currently occupied by a range of uses, including a full service marina, parking, warehouses, boat storage, a blacksmith facility and some accessory office space. The property is also bisected by a 50' wide strip of Maine State property land that encompasses both the Maine Narrow Gauge Railway and a public, multi-use trail that is an extension of the Eastern Promenade, maintained by Portland Trails and the City of Portland. The application also includes two adjacent City-owned lots.

Surrounding Uses. The property is contiguous with active waterfront uses to the west, bordered by the Ocean Gateway Terminal, and east of that, at the foot of Commercial and Franklin Streets, the Maine State Pier, both serving deep water dependent large vessels, including cruise ships. To the east is the Eastern Promenade. The neighborhood to the immediate north is residential, with Waterville, St. Lawrence and Atlantic Streets perpendicular to the Fore Street-side boundary of the property, and abutted by Munjoy South apartments. Also to the north but immediately west of this residential area is the India Street neighborhood, which contains residential uses and a diverse mix of commercial uses – Shipyard Brewery, parking garages, the shops of India Street, a Marriot Residence Inn, and the Eastern Cemetery.

Zoning Context. The immediately adjacent zones to 58 Fore Street are R-6 (Residential) to the east and north, ROS (Recreation and Open Space) to the east, B-6 to the west, and EWPZ to the west and south. The property is also partially in the Shoreland Zone, and partially in a flood zone.

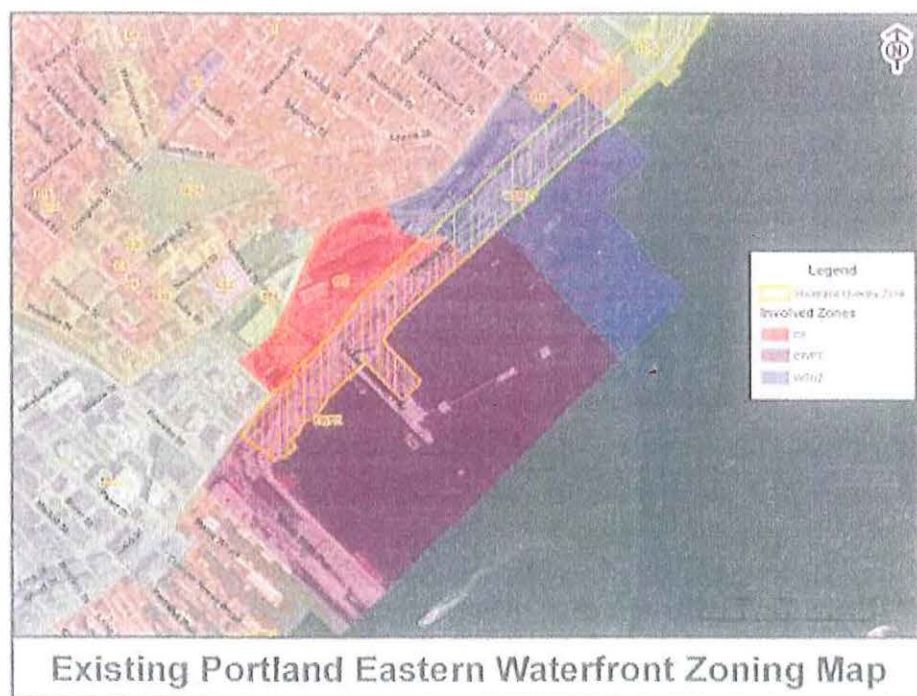


Figure 12, Existing Zoning

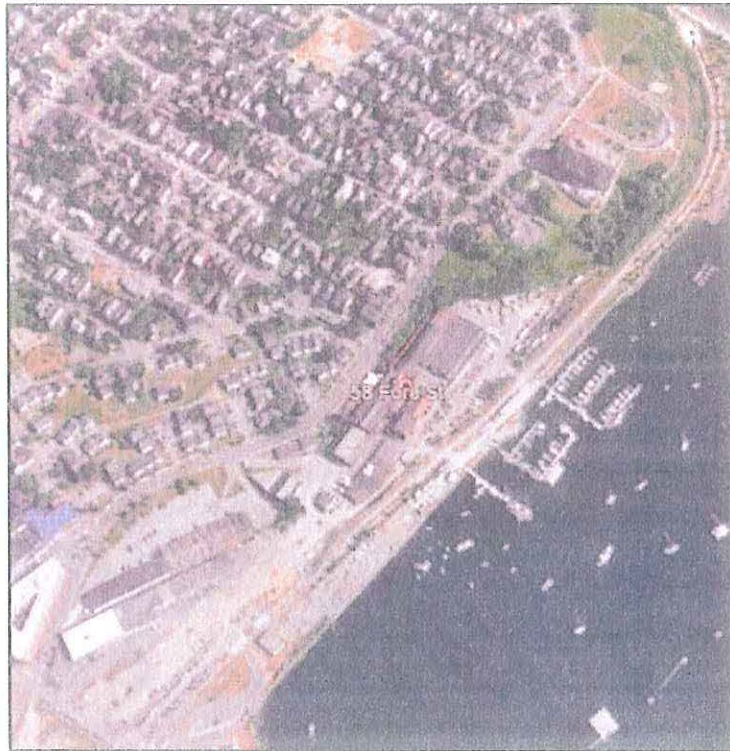


Figure 23, Aerial View of 58 Fore Street

III. PROPOSED MAP AMENDMENT

Current Zoning:	Waterfront Special Use Zone (WSUZ), Shoreland Overlay
Proposed Zoning:	B-6, Eastern Waterfront Port Zone (EWPZ), Shoreland Overlay
Current Uses:	Warehouses, storage buildings, marina, associated parking. State of Maine Property, currently utilized by the Maine Narrow Gauge Railroad and a section of the paved, public Eastern Promenade Trail maintained by Portland Trails/City of Portland. The City Property includes gravel and paved parking areas.
Proposed Uses:	None proposed at this time
Total Parcel Area:	Approximately 12 acres, + submerged lands
Area to be Rezoned:	Approximately 12 acres, + submerged lands

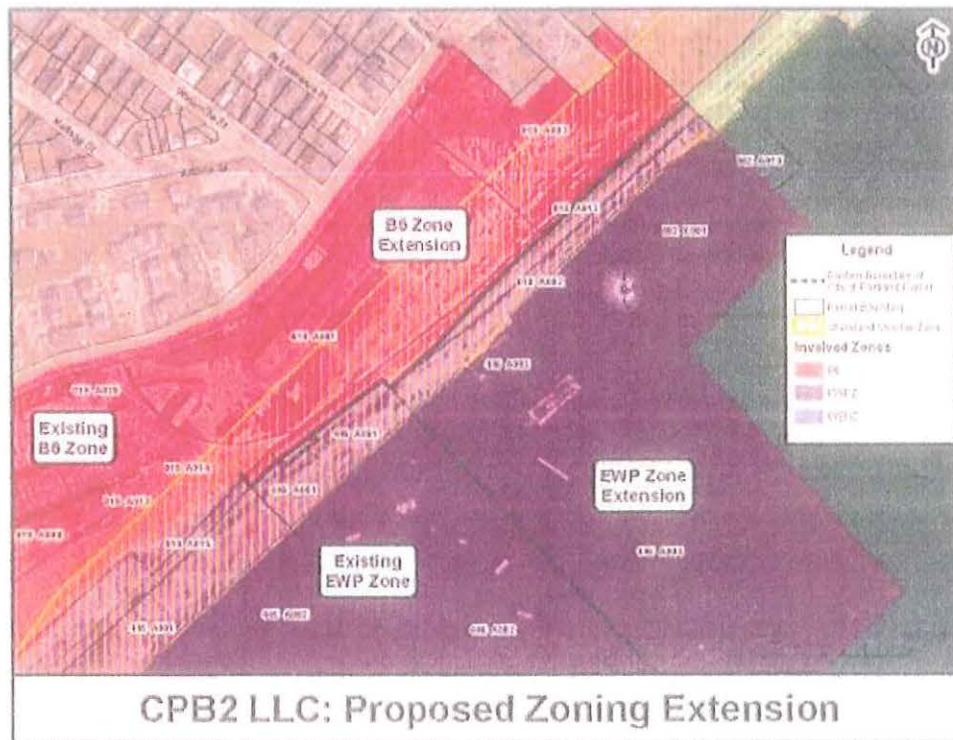
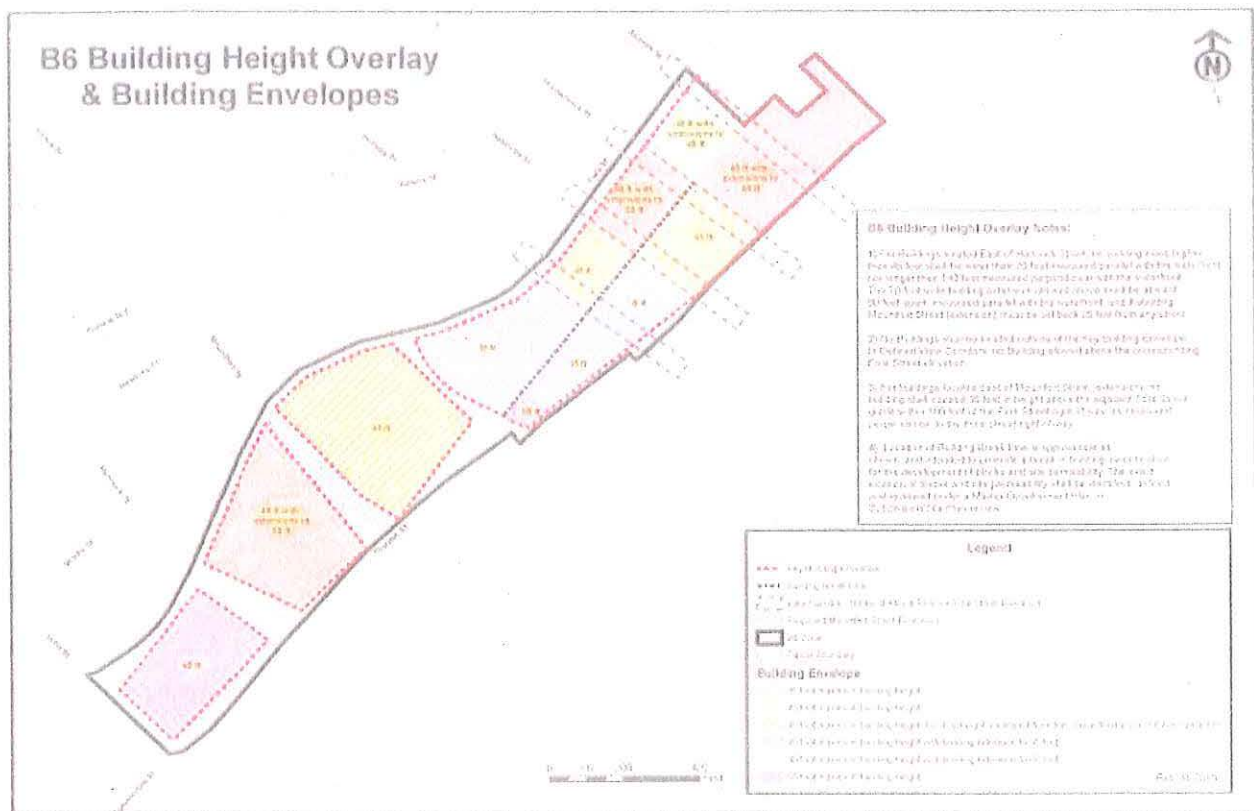


Figure 34, Proposed Zoning

In addition to the base zone map amendment, the application includes a change to the B-6 Building Height Overlay & Building Envelopes map, which currently encompasses the existing B-6 zone, and is proposed to be extended to encompass the new, easterly extent of the B-6 zone.

The proposed amended height map contains a note #3, which states that *no buildings east of Mountfort Street shall exceed 35 feet in height above the adjacent Fore Street right-of-way grade*, with the reference to the depth of this restriction extended to 100 feet. This was proposed by the applicant in response to concerns made in written and verbal public comments about the potential of buildings to rise above Fore Street greater than 35 feet.



IV. PROPOSED TEXT AMENDMENTS

The application includes text amendments to the following sections of the Land Use Code:

- **Sec. 14-48, Establishment of Zones (Division 1)**
Reference to WSUZ is struck.
- **B-6 Eastern Waterfront Mixed Zone (Division 15.1)**

The following permitted uses are proposed to be added to the B-6 zone:

- o Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
- o Educational facilities.
- o Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.
- o Museums and art galleries.
- o A new use of underground fuel storage in B-6

An exemption from the noise standard has been modified to include temporary activities, festivals, events and concerts. Special events are subject to their own permitting standards.

Mediation is proposed to be changed to *Meditation* – staff and the applicant view this as correction of an existing typo.

In response to concerns raised during the February 10th public comment period, the applicant has proposed a standard prohibiting brew pubs with entrances on Fore Street east of Waterville Street, and a standard limiting the hours, locations and primary functions drinking establishment in the same area.

- **Eastern Waterfront Port Zone (Division 17.5)**

The following changes to the use standards are proposed:

- A permitted marine use that references a maximum fuel storage of 20,000 gallons has been substituted with similar language that appears in other zones, and provides for similar functions, except that the maximum of 20,000 gallons has been removed.
- Marinas are proposed as a permitted use east of the Ocean Gateway facility (referenced by deed). Marinas are currently a conditional use – the application proposes they remain conditional west of Ocean Gateway.
- To be added: Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.
- To be added: A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

The following change to the dimensional requirements is proposed:

- Sec. 14-303. Dimensional requirements.

....

4. Setback from pier line: Notwithstanding the above requirements, a minimum setback of twenty-five(25) feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 14-301(b)(12), may be located up to five (5) feet from the edge of any pier, wharf or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other non water-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

- **Waterfront Special Use Zone (Division 18.7)**

The body of section is struck, replaced by *Reserved*.

- **Signs (Division 22)**

References to WSUZ are struck.

- **Shoreland Regulations (Division 26)**

References to WSUZ are struck, and references to B-6 are inserted. Any change to Shoreland Regulations require Maine DEP approval.

- **Site Plan Massing and Permeability in B-6 and EWPZ.**

The applicant has proposed additions to the Site Plan standards that address design concerns raised over the course of Planning Board review regarding massing and permeability of future developments under the B-6 and Eastern Waterfront Port Zones. Specifically, 14-526(d) Site Design Standards: *B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business*

zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual. New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.

- **Fuel Storage**

Fuel storage is addressed in three ways in the proposed text amendments.

1. Fuel storage in the WSUZ is eliminated, along with all other reference to this zone. The WSUZ zone currently allows for the following at 58 Fore Street: *Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels.*
2. The B-6 zone proposes a new use: *Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels.* As a mixed-use zone adjacent to the Eastern Waterfront Port zone, this is a waterfront compatible use.
3. The proposed text amendments to the Eastern Waterfront Port Zone removes the current limitation of 20,000 gallons of fuel storage, and replaces it with the language currently in the WSUZ, the current zone of this site: ~~Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone;~~ Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;

The applicant has provided a consultant opinion from Petroleum Marine Consultants in their submission materials for the February 10th workshop regarding the fuel storage capacity needs of a deep water marina that will accommodate both small and large transient vessels, which sites anticipated fuel capacity needs well in excess of 20,000 gallons.

The proposed change is not a net change to fuel storage standards for this area, since it aligns with the fuel storage standard of the current zone. Nor does it hamper the functioning of the EWPZ. Any large fuel storage additions proposed for the property would be included in an application to the Planning Board, and subject full site plan and safety reviews.

Supplemental Text Amendments

Staff has included additional text amendments not in the original submission made by the applicant. These are changes to the B-6 dimensional standards, exempting the new, eastern portion of the B-6 zone from the following requirements that don't fit well the particular conditions of 58 Fore Street: a three story building minimum stories of habitable space within 25 feet of any public street (14-272.g), and a requirement that 70% of building wall or 25% or building perimeter be located along the street frontage of the lot (14-272.d). The three story minimum runs counter to the B-6 Building Height Overlay & Building Envelopes map requirements. For a parcel this size, where multiple interior buildings could be constructed, requiring a 70% of building wall be along street frontage would require all buildings constructed along the site line of Fore Street.

Full drafts of all proposed text changes are included in Attachment A.

V. ZONING ANALYSIS

Purpose of WSUZ, B6, EWPZ. The purpose of the WSUZ is defined by its constraints, as a zone sandwiched between high density residential to the north, parkland to the east, and industrial uses to the west, and the need to be compatible between these diverse land uses. It sets minimum expectations for development in the zone to be compatible with water-related and water-dependent uses, and that uses be compelled to contribute to maintenance and improvement of waterfront infrastructure.

The purpose of the B-6, eastern waterfront mixed zone is to establish a zoning district for the upland portion of the eastern waterfront area. The B-6 zone encourages this district to acquire a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. The zone promotes a range of uses to achieve twenty-four hour urban vitality and shared use of parking infrastructure as recommended in the Eastern Waterfront Master plan for redevelopment. The B-6 is described as a zone that abuts a waterfront zone, not as having a water-dependent purpose itself.

The purpose of the EWPZ is more explicit in its purpose as a waterfront zone than the WSUZ, and quite detailed. It exists to nurture a wide range of deepwater-dependent industry and commerce. Piers, uplands, and circulation patterns consistent with the transportation needs of marine facilities are mentioned, as well as the encouragement of non-marine uses that support deepwater activities, provided that they do not conflict or compete for limited space with existing or anticipated deepwater-dependent needs. It's primary emphasis, however, is on the berthing and support of large vessels. The purpose statement ends on a recognized hierarchy of uses:

- (a) The first priority of this zone is to protect and nurture existing and potential deepwater dependent uses (those uses requiring a minimum of 15 feet of water depth);*
- (b) The second priority is to allow shallow water-dependent and other permitted marine uses, so long as they do not interfere with deepwater dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure; and*
- (c) Other uses specified herein are allowed only if they do not interfere with and are not incompatible with higher priority uses.*

Comparison of Allowed Uses

Both the WSUZ and the EWPZ contain a prohibition on uses that have adverse impacts on marine uses (Sec. 14-320.5.5 & Sec. 14-300.1), including uses that will displace an existing water-dependent use; uses that will reduce existing commercial vessel berthing space; uses, structures or activities that will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or the siting of uses that will substantially reduce or inhibit existing public access to marine or tidal waters. B-6, being an upland zone, does not contain a parallel section.

The WSUZ distinguishes allowed uses according to their location north and south of the railway tracks. A full slate of marine-related and marine-dependent uses allowed on both sides of the tracks in the WSUZ. No residential construction is allowed either as a permitted use or as a conditional use. The uses permitted north of those tracks limit new construction, unless approved under conditional or contract rezoning.

In conjunction with the standard conditions of approval for all conditional uses (Section 14-474), conditional uses in the EWPZ are allowed provided the uses do not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and can demonstrate that parking and traffic circulation does not interfere with the functional marine utility of the property.

As with other zones, uses not enumerated are not permitted. Additionally, the following uses are specified as prohibited: residential uses, amusement/theme parks, bulk freight facilities, on-site gambling casinos not accessory to and located aboard either a ferry or inter-port cruise ship.

B-6 permitted uses include a host of residential, commercial, and other uses, such as professional offices, restaurants, hotels and inns (max. 150 rooms), retail, theatre, banks, carpentry shops, brew pubs, marine product sales, marine services, bakeries and commercial kitchens, live/work spaces, multi-use trails, artists, studios, health clubs, daycare facilities.

B-6 conditional uses include meeting and exhibition facilities up to a total of 20,000 gross sf; wholesaling, providing the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building footprint of less than 15,000 square feet; drive-up banking facilities located in the interior of parking structures, subject to multiple criteria; surface and structured parking, subject to multiple criteria, including ground floor commercial requirements for structured lots; and temporary wind anemometer towers.

As with other zones, uses not enumerated are not permitted. Additionally, the B-6 use requirements specifically prohibit ground mounted telecommunication towers; waste, scrap, and/or byproduct storage and processing facilities; auto service stations; and drive-up facilities, excepting bank drive-ups in interior parking structures.

In sum, neither the WSUZ nor the EWPZ allow residential uses or anything but ancillary non-residential, non-marine uses. They tackle this issue through different tools – the WSUZ allowing a greater range of non-marine-dependent uses north of the rail line that splits the zone and through limits on new construction, and EWPZ through a narrower list of combined possible uses and strong language regarding the necessary marine compatibility of non-marine uses. The emphasis in the list of permitted uses for EWPZ is on marine-dependent uses, with most marine-related uses being conditionally allowed. The allowed uses of the B-6 zone are varied.

Comparison of Dimensional Requirements:

	WSUZ	EWPZ	B-6
Min. Lot Size	None	None	None
Min. Street Frontage	None	None	
Min. Front Yard	None	None	
Min. Rear Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	None
Min. Side Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	
Max. Setback from Street Line			10 ft., excepting parking garages, public trans. facilities, and subject to the building height envelopes of Eastern Waterfront Building Height Overlay Map. See Sec. 14-272 c.2 for exemptions.
Min. Length of Building Wall required to be located along street frontage of lot			70% of lot street frontage or 25% of building perimeter. For buildings fronting on 2+ streets, building wall on one street may be decreased so long as it is proportionally increased on others and the building wall on the secondary street is not reduced to less than 25 ft.
Min. Setback from Pier Line	5 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	25 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	
Max. Structure Height	45-100 ft. (see Sec. 14-320.9.e)	45 ft, except for cranes and gantries, rooftop appurtenances (see Sec. 14-303.e for full exemptions)	65 ft. or as otherwise governed by a Building Height Overlay Map
Minimum Building Height for New Construction			3 floors of habitable space above the average adjacent grade within 25 ft. of any public street. See Sec. 14-272 c.3.g for exemptions.
Max. Lot Coverage			100%
Max. Impervious Surface		100%	

Building Height Overlay and Building Envelopes Map

The current B-6 Building Height Overlay & Building Envelopes map was adopted in 2004 as a direct outgrowth of the policy recommendations of the Height Study, and regulates heights and building areas within the current B-6 boundaries (Figure 6). A simultaneously amended B-6 Building Height Overlay and B-6 zone extent is critical to

maintain Comprehensive Plan consistency. Illustration 33 of the Eastern Waterfront Building Height Study is the document that has informed the creation of the Building Height Overlay and Building Envelopes map. Illustration 33 is included as part of the Eastern Waterfront Building Height Study, pg. 29: and in Figure 7 below.

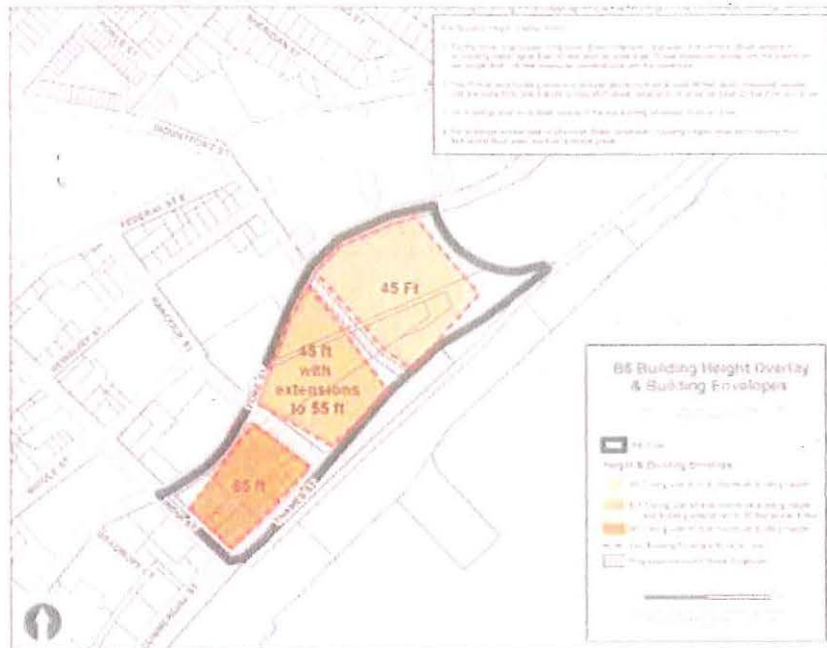


Figure 56, Current Height Overlay and Building Envelopes

Implementing Illustration 33's policy recommendations into zoning regulations for the newly extended area of the B-6 zone required some modifications. View corridors and building-height envelopes are maintained as shown on Illustration 33.

- Interior build-to lines have been eliminated because they would not have any practical importance or benefit for the area.
- An additional building restriction was added in a height maximum along Fore Street of 35 feet. This was added to allay concerns about the extent of the view

obstruction and the unpredictability of

possible building heights along Fore Street. It originally was accompanied by a depth of 35 feet, so that buildings beyond 35 feet in distance from the Fore Street right of way could potentially exceed the 35 foot height cap, but this distance is now extended to 100 feet from the edge of Fore Street. The topography of the site, which includes significant grade, would make it extremely unlikely that a building could exceed 35 feet above Fore Street while complying with the height maximums of the Height Overlay map. This is a more restrictive map than the previous iteration, and gives considerably more assurance of predictable maximums in the viewshed from Fore Street.

- Illustration 33 shows an opening between the building envelopes, through the center of the Portland Co. site, and is referred to in the Height Study as the Portland Company Alignment. The location of this alignment is the service alley that presently runs between buildings on the site. The alignment as depicted on Illustration 33 is outside of the key building envelopes boundary, indicating that it should be preserved from further development. The proposed height overlay map (Attachment A and Figure 5) depicts the building envelopes touching, but with a seam between them along the centerline of the corridor, accompanied by a map note that indicates there shall be a break of buildings. This insures this corridor from being spanned by single buildings, but does not specify the distance between buildings. The reasons for this are several - close scrutiny of Illustration 33 shows the Portland Co. alignment running through a portion of an existing building; the intended dimensions of the alignment are not specified; there is an historic preservation process, both in terms of the potential designation of the site or portions of the site, which if approved would lead to the requirement for Certificate of Appropriateness review by the Historic Preservation Board when a development proposal is brought forward, that will allow for evaluation of the precise area best retained between buildings; and, the anticipated Master Development Plan requires the Planning Board to review it for consistency with City Comprehensive Plan. The break between the building envelopes in the area of this alignment is a rational implementation of zoning based on the policy recommendations of Illustration 33, and one that leaves some discretion to the tools available to both the

Historic Preservation Board and the Planning Board to determine the final dimensions and physical characterizations of this area.

Visualizing Heights

At the November workshop the applicant submitted multiple sections to illustrate the height implications of the zoning map amendment on the property. An example from that submission is included as Figure 8.

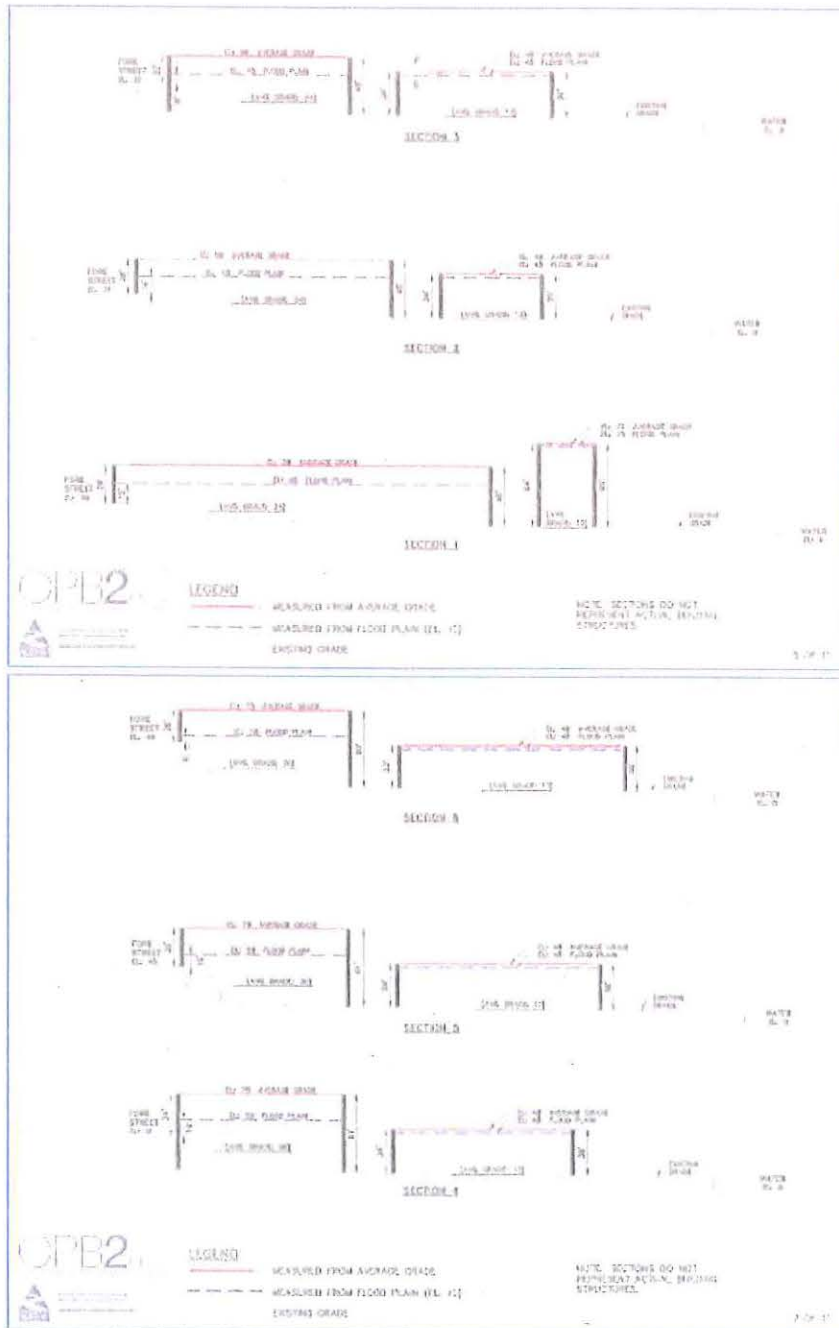


Figure 68

The Planning Board subsequently requested additional visuals to better understand the height implications of the project both from Fore Street looking south, and from the southern portion of the property looking towards Fore Street. An excerpt of the response to that request is included in Figure 9. The section below layers existing buildings on Fore Street (north side of street), maximum building envelopes under the B-6 Height Overlay, buildings at 58 Fore Street that are visible at Fore Street, a dashed line marking the 35 foot height maximum proposed at Fore Street, the heights and location of existing utility poles and preserved view corridors.

4

VI. COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan Volume 1 (2002/2004) gives an overview of the years of waterfront planning efforts of the City, and addresses redevelopment of Waterfront East specifically. It outlines four redevelopment principles for development in this area: 1) Character and Impact of Development; 2) Mixed-use as a component of an active, vibrant urban area; 3) maintaining Maritime Resources; and 4) Economically Responsible Development that benefits the city and the region. These four principles are restated and expanded upon in the Eastern Waterfront Masterplan (adopted 2002 and amended 2004 & 2006). The application to rezone this area (section 2.4) cites support in that document for zoning changes that foster upland mixed use development as well as water dependent and marine uses within 75 feet of the shore line. Rezoning of this eastern waterfront area, which resulted in the establishment of the B-6 zone, was anticipated, and the zone changes proposed herein reflect the overall policy guidance of the Eastern Waterfront Masterplan. Both Volume 1 of the Comprehensive Plan and the Eastern Waterfront Masterplan indicate that land within 75 feet of mean high water should be given priority to water-dependent and marine uses, which corresponds to the proposed boundary between the B-6/EWPZ zones. **The Planning Board found that the proposed rezoning from WSUZ to B6 and EWPZ is consistent with these four broad principles. Detail on each of these principles follows, as well as a summary of consistency with the Building Height Study and the Design Guidelines.**

- *Character and Impact of Development.* This section calls for a variety of related outcomes, including compatibility with surrounding neighborhoods and maritime uses, historic preservation and adaptive reuse, compatible architecture, protection of view corridors, integrated street and trail networks. **Protection of view corridors consistent with the Height Study are proposed. Review for greater connectivity and eventual review of new building designs will take place by the Planning Board when a development proposal is brought forward. The process for determining whether this property will receive an historic designation, and the extent of that designation, is about to begin, and if designated will result in subsequent Historic Preservation Board development review.**
- *Mixed Use.* The Eastern Waterfront Masterplan calls for the development of vibrant and active mixed-use areas, compatible with maritime resources, that maintains access to the waterfront, maintains and enhances trail access, and includes but is not limited to residential, commercial, public, institutional, marine, park, trail and industrial uses. **The full name of the B-6 zone includes the descriptor *Eastern Waterfront Mixed Use Zone*. It was created as a direct outgrowth of the Eastern Waterfront Masterplan recommendations as a mixed-use zone that could operate as a maritime compatible but upland zone in this area. Extension of the B-6 zone, while retaining a waterfront zone in the form of the EWPZ, is a specific fulfillment of Comprehensive Plan policies for the Eastern Waterfront.**
- *Maritime Resources.* The Eastern Waterfront Masterplan calls for land within 75' of the mean high water line being reserved for waterfront dependent and associated marine-related uses. **The new zone boundaries reserve 75 feet of land for the Eastern Waterfront Port Zone, a dedicated waterfront zone.**
- *Economically Responsible Development.* This includes multiple objectives, including positive economic return to City government, strengthening water related tourism, assuring that future development benefits residents, infrastructure investments, and enhancing multi-modal transportation opportunities. **This application for rezoning greatly enhances the potential for redevelopment and investment in this site, while retaining maritime resources, increasing the prospect for water-related tourism, and maintaining public access through the site.**
- *Recommendations specific to 58 Fore Street* in The Eastern Waterfront Masterplan emphasize

better vehicular and pedestrian connections to surrounding areas, encourage sensitivity to historic nature of the site and adaptive reuse of historic structures, promotion of shared parking, retention and/or expansion of marine uses, and active public use of the water. When a development proposal for this property is brought forward, the specifics of circulation, parking and waterfront access will be reviewed, by the Planning Board and very likely by the Historic Preservation Board. The rezoning proposal allows for all of these policy priorities to occur when a development program is ultimately submitted. In addition to the rezoning, the applicant has proposed site plan standards that ensure that future proposals provide appropriate massing, design and permeability in site layouts, standards which support improved circulation patterns and improved connections to surrounding neighborhoods.

Two other pertinent documents adopted as into the Comprehensive Plan are the Eastern Waterfront Design Guidelines and the Eastern Waterfront Building Height Study.

The Eastern Waterfront Building Height Study. The B-6 Building Height Overlay & Building Envelopes map was adopted in 2004 as a direct outgrowth of the policy recommendations of the Height Study, and regulates heights and building areas within the current B-6 zone. The proposed revisions to this overlay map are also a result of interpretation of the policy recommendations of the Height Study, particularly the culminating recommendations embodied in "Illustration 33". This height overlay amendment establishes building envelopes, height maximums throughout, with additional limits along Fore Street, no-build areas, dimensional requirements of towers above base heights, and view corridors.

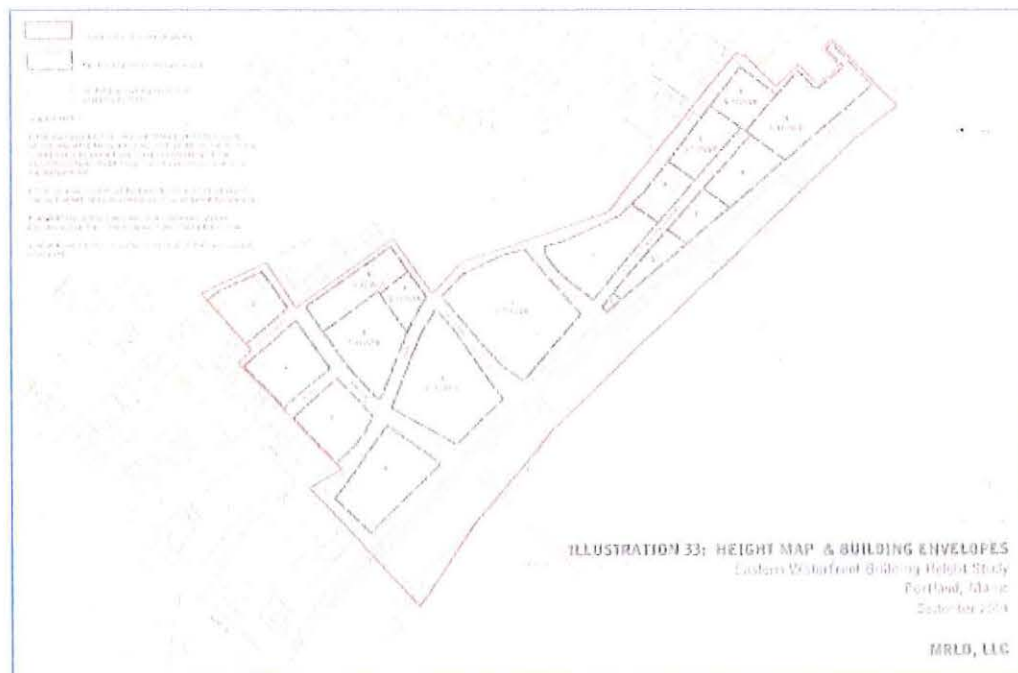


Figure 87, Illustration 33

The B-6 Building Height Overlay & Building Envelopes map was adopted in 2004 as a direct outgrowth of the policy recommendations of the Height Study, and regulates heights and building areas within the current B-6 boundaries (Figure 6). The Height Overlay map includes a reference to buildings east of Mountfort Street

(extension), stating that building heights shall be measured from feet above flood plain, rather than the more common method of measuring from average grade. This was a decision made when implementing the Height Study for the original B-6 zone, but not a recommendation made within the Height Study itself. Earlier drafts of the Height Study indicate the use of flood plain was debated, as were a range of heights and other elements deliberated as part of the extensive planning process for the Eastern Waterfront that were not ultimately included as part of the final, adopted plan. There is no directive on how height is to be measured when implementing the Height Study in zoning, and nothing explicit on this subject except a single mention to height measurement in the form of a map note in Illustration 33 that references buildings east of Hancock Street being measured from average grade. Since the initial October workshop, there have been extensive discussions concerning the height impacts above Fore Street, including the implications of both measurement methods, and the Planning Board concluded that an amended B-6 Height Overlay that utilizes average grade as the method for determining heights is consistent with the Comprehensive Plan. The amended Overlay (Figure 5) does not specify average grade, as this is the default zoning method City-wide, and it is implied.

To assist in the review of the of the height implications of this application the applicant included various visuals, including cross sections of the implications of building measurements taken from flood plain or average grade (Figure 8).

The proposed simultaneously amended B-6 Building Height Overlay and B-6 zone boundary maintains Comprehensive Plan consistency.

Design Guidelines for Development of the Eastern Waterfront will be a pertinent policy document when a development proposal is brought forward. The applicant has brought forward preemptory language from the Design Guidelines regarding massing and permeability taken directly from the recommendations of the Guidelines, in response to Planning Board and public concerns. A future master development plan would be reviewed for consistency with the Eastern Waterfront Design Guidelines. Staff also proposes to bring forward an amendment to the City of Portland Design Manual, for Planning Board consideration and subsequent action, that incorporates the Eastern Waterfront Design Guidelines by reference and/or text amendment. The rezoning of this area does not trigger any conflict with this document.

VII. PUBLIC COMMENT

Though the issues of interest and concern to the public in regard to the rezoning of this site have been varied, the issues of building heights and resulting view impacts were a central topic of the Planning Board review. Other issues raised to date have included the preference for a contract zone for the area, methods for building height measurement, the range of uses abutting the adjacent residential neighborhood, retention of a viable waterfront zone, potential noise and traffic impacts, pedestrian access to the property and to the water, the continued presence of the rail/trail, sea level rise impacts, the desire to see a development concept for the property prior to rezoning, and the importance of historic preservation. Public comments submitted to date are included as PCI through PC27.

VIII. PLANNING BOARD RECOMMENDATION

The Planning Board considered the proposed map amendment at a public hearing on February 24, 2015. After a carefully considered discussion about the appropriate zone boundaries, and on the basis of staff reports, public testimony, and review of applicable policies, the Planning Board voted unanimously (6-0, Boepple absent) that the proposed map amendment from the WSUZ to B-6 and EWPZ, an amendment to the B-6 Building Height Overlay & Building Envelopes map, and the proposed text amendments to the WSUZ, B-6, EWPZ and Shoreland Overlay zone are consistent with the Comprehensive Plan and recommended adoption of the proposed map amendment to the City Council.

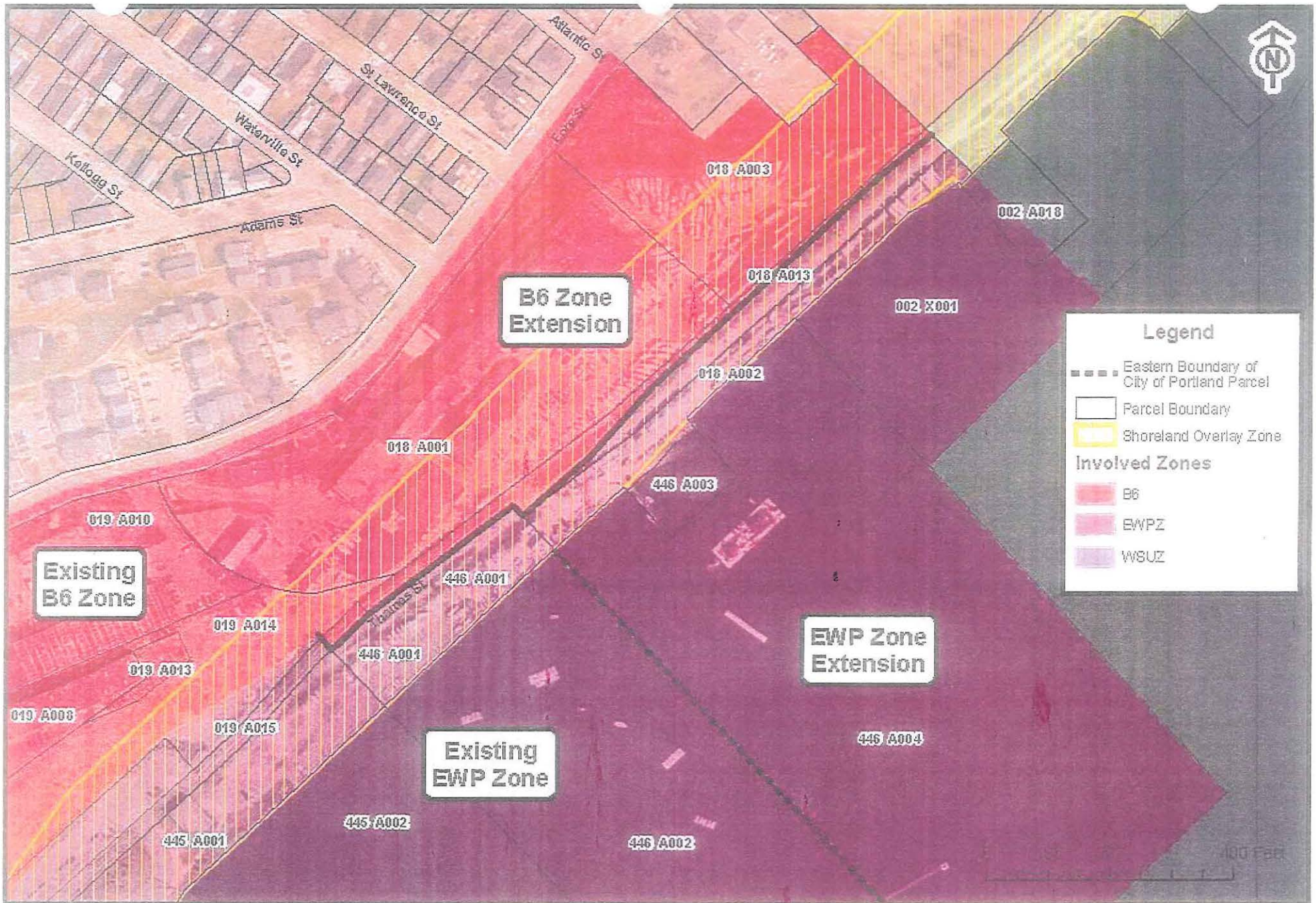
IX. ATTACHMENTS

Applicant's Submittal

A. Proposed Map and Text Amendments

Public Comment

- PC 1. A. Adams
- PC 2. Vestal/Soul of Portland
- PC 3. Macomber
- PC 4. Burwell
- PC 5. Vestal
- PC 6. Ingalls
- PC 7. Agopian
- PC 8. Snyder
- PC 9. Snyder
- PC 10. Greater Portland Landmarks
- PC 11. Small
- PC 12. Pressier
- PC 13. Burwell
- PC 14. Macomber
- PC 15. Ansheles
- PC 16. Vestel
- PC 17. Stevens
- PC 18. PSA
- PC 19. Postcards
- PC 20 GPL
- PC 21 PSA
- PC 22 Vestal
- PC 23 Donovan
- PC 24 Hebold
- PC 25 Macomber
- PC 26 McGee
- PC 27 Whitten Pts 1 & 2



CPB2 LLC: Proposed Zoning Extension

Sec. 14-48. Establishment of zones.

In order to carry out the provisions of this article, the city is hereby divided into the following classes of zones:

. . .

~~(dd) Waterfront special use zone~~

. . .

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

Sec. 14-269. Permitted uses.

The following uses are permitted in the B-6 zone:

(a) *Commercial:*

1. Professional, business and general offices;
2. Restaurants and other eating and drinking establishments, except that no drinking establishments as defined in section 14-47 that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street, and provided that restaurants that are located east of Waterville Street and within fifty feet (50') of Fore Street must meet the following requirements:
 - a. The hours of operation shall be limited to between 5:00 a.m. and 11:00 p.m. each day.
 - b. Food service and consumption are the primary function of the restaurant;
3. Hotels and inns limited to no more than 150 rooms;
4. Craft and specialty shops, including the on-premises production of handcrafted goods;
5. Retail and retail service establishments, excluding those with gas pumps;
6. Theatres;
7. Banking services, excluding vehicular drive-up services;

Editor's Note: Drive-up banking facilities located in the interior of parking structures are allowed as a conditional use subject to the criteria outlined below in the conditional use provisions of this section.

8. Cabinet and carpentry shops;

9. Personal services;
10. Business services;
11. Offices of business trades people;
12. Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments;
13. Telecommunication and broadcast and receiving facilities, except as prohibited in section 14-271 (prohibited uses);

In addition, building mounted telecommunications antennas, discs, transmitting and receiving equipment and the like shall adhere to the following criteria. Such roof-mounted equipment shall be:

- a. No taller than 15 feet above the highest structural steel of the building roof; and
 - b. Set back no less than 15 feet from the building perimeter; and
 - c. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.
14. Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output, except that no brew pubs or microbreweries that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street.
 15. Electronic data storage;
 16. Marine products wholesaling and retailing;
 17. Harbor and marine supplies and services, chandlery and ship supply;

18. Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels;

198. Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.

~~1920.~~ Printing establishments.

(b) *Residential:*

1. Attached dwellings including row houses, two-family and multifamily dwellings;
2. Handicapped family units;
3. Combined living/working spaces, including but not limited to artist residences with studio space;
4. Mixed use residential and commercial structures.

(c) *Public:*

1. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures;
2. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces;
3. Pedestrian and multi-use trails;

(d) *Other:*

1. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians;
2. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, except that parking

lots shall not be considered a permitted accessory use and such parking is subject to the conditional use section of the B-6 zone.

3. Health clubs, martial arts and meditation facilities.
4. Intermodal transportation facilities.
5. Nursery schools, kindergartens, and daycare facilities or home babysitting services.
6. Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
7. Educational facilities.
8. Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.
9. Museums and art galleries.

- (e) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

Sec. 14-270. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-6 zone as provided in 14-474 (conditional uses), provided that, notwithstanding section 14-474(a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

(1) *Commercial:*

- a. Meeting and exhibition facilities limited to a total of 20,000 gross square feet of interior floor area.
- b. Wholesaling, providing the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building footprint of less

than 15,000 square feet.

- c. Drive-up banking facilities located in the interior of parking structures, subject to the following criteria:
 - i. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street line;
 - ii. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets;
 - iii. Drive-up vehicle circulation shall not create an impediment for retail or mixed-use development for the first floor of the subject garages along any adjacent public streets.
- d. Research and development and related production facilities, including but not limited to biotechnology, subject to the following conditions:
 - i. Associated manufacturing and warehousing uses combined are not to exceed 15,000 square feet.
 - ii. Biotechnology facilities must demonstrate approvals by all applicable regulatory authorities prior to commencement of operations.

(2) *Parking*

. . . .

Sec. 14-273. Performance standards.

All new development in the B-6 Eastern Waterfront Business Zone shall comply with the following standards:

(b) *Noise:*

1. *Definitions:*

- a. Tonal sounds are defined as sound waves usually perceived as a hum or whine because their instantaneous sound pressure varies essentially as a simple sinusoidal function of time.
- b. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with duration of less than one (1) second.

2. *Measurement:* Sound levels shall be measured with a sound level meter with a frequency weighting network manufactured according to standards prescribed by the American National Standards Institute (ANSI) or its successor body. Measurements shall be made at all major lot lines of the site, at a height of at least four (4) feet above the ground surface. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ₁).

3. *Maximum permissible sound levels:* The maximum permissible sound level of any continuous, regular or frequent source of sound produced by an activity shall be as follows:

- a. Sixty (60) dBA between the hours of 7:00 a.m. and 10:00 p.m.
- b. Fifty (50) dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured at or within the boundaries of any residential zone.

In addition to the sound level standards established above, all uses located within this zone shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones.

4. *Exemptions:*

- a. Noises created by construction and maintenance activities between 7:00 a.m. and 10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section. Construction activities on a site abutting any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.
- b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:
 - i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
 - ii. Traffic noise on public roads or noise created by airplanes and railroads.
 - iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.
 - iv. Emergency construction or repair work by public utilities, at any hour.
 - v. Noise created by any recreational activities temporary activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, and fireworks

displays, festivals, events and
concerts.

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

Sec. 14-272. Dimensional requirements.

In addition to the provisions of article III, division 25 of this Code, lots in the B-6 Eastern Waterfront Business Zone shall meet the following requirements:

(a) *Minimum lot size:* None.

(b) *Minimum frontage:* None.

(c) *Yard dimensions:*

1. Minimum yards in the B-6 zone:

Front setback: None required except as provided in 3. below:

Side setback: None required.

Rear setback: None required.

2. Maximum building setback from street line except for parking garages, public transportation facilities and provided in 3. below: 10 feet.

a. For lots fronting on more than one street, the setback can be increased more than ten (10) feet if all of the following conditions are met:

i. The increased setback occurs at the intersection of the streets;

ii. The increased setback area is the primary pedestrian entrance to the building;

iii. Seventy-five (75) percent of the total building wall length facing the abutting streets shall be setback no greater than ten (10) feet; and

iv. All building wall segments, which make

up the increased setback shall be included in the calculation of the total building wall length noted in subsection iii above.

In addition, for any new construction on a lot abutting three or more streets, the maximum setback shall apply only to the two most major streets. (For purposes of this section, major street shall mean that street with the highest traffic volume or the greatest street width in comparison with the remaining streets).

3. View Corridors and Key Street Wall Development

Notwithstanding sections 1. and 2. above, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes shown on the B6 Building Height Overlay & Building Envelopes map Eastern Waterfront Building Height Overlay Map. Buildings located in the easternmost key building envelope, shall not have a maximum front setback, and shall not be required to build to the key building envelope perimeter. Parking structures and the buildings for public transportation facilities may, however, set back beyond the key building envelopes (toward the interior of blocks), but may not occupy the land between the key building envelope and the street right of way.

(d) Minimum length of building wall required to be located along street frontage of lot (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to this requirement).

- i. 70% of lot street frontage; or
- ii. 25% of building perimeter,
- iii. For buildings fronting on two or more streets, the minimum building wall on one street may be decreased so long as the

frontage is proportionally increased on other streets in so far that the building wall on the secondary street is not reduced to less than 25 feet.

- (e) *Maximum lot coverage:* One hundred (100) percent.
- (f) *Maximum building height:* 65 feet, or as otherwise governed by a Building Height Overlay map (for example, in the Eastern Waterfront). Building Height Overlay maps are found in the Planning and Development Department Office.
- (g) *Minimum building height:* No new construction of any building shall have less than three (3) floors of habitable space above the average adjacent grade within twenty five (25) feet of any public street (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to a minimum building height).

This provision shall not apply to:

- i. Parking attendant booths,
- ii. Information kiosks and ticketing booths,
- iii. Parking garages,
- iv. Public transportation facilities,
- v. Additions to buildings existing as of December 8, 2004 provided that the cumulative additions since December 8, 2004 does not exceed 25% of the building footprint on December 8, 2004 except that such restriction shall not apply to those portions of the building addition that are constructed closer to the street line than the building footprint existing as of December 8, 2004,
- vi. Buildings or building additions of less than 2,000 square feet footprint, on lots or available building sites of less than 2,000 square feet,

vii. Utility substations, including sewage collection and pumping stations; water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, and

viii. Additions to and/or relocations of designated historic structures.

DIVISION 18.7. ~~WATERFRONT SPECIAL USE ZONE*~~ RESERVED

~~*Editor's Note~~ See the editor's note to division 18 of this article.

~~Sec. 14-320.5. Purpose.~~

~~The waterfront special use zone recognizes that the uses appropriate in this zone are constrained by its proximity to heavy industrial use on the western end, a high density residential neighborhood on the north, and park and R-OS land to the east. Uses to be located in this zone must be compatible with these existing neighborhood uses.~~

~~At a minimum, parcels in this zone generally enjoy visual access to the port. It is further recognized that this area has historically been used for marine uses and that some of the parcels have the capacity to accommodate active water-dependent uses. While physical access to the water may not currently be legally available to all parcels in this zone, it is anticipated that developments in this zone may be able to negotiate easements for access. At a minimum, development in this zone should not be incompatible with marine and water-dependent uses. Uses which contribute to the maintenance and improvement of the infrastructure along the water's edge as a condition of use are strongly encouraged.~~

~~(Ord. No. 168-93, S 2, 1-4-93)~~

~~Sec. 14-320.5.5. No adverse impact on marine uses.~~

~~No use shall be permitted, approved or established in this zone if it will have an impermissible adverse impact on future marine development opportunities. A proposed development will have an impermissible adverse impact if it will result in any one (1) or more of the following:~~

- ~~(a) The proposed nonwater-dependent use will displace an existing water-dependent use;~~
- ~~(b) The proposed use will reduce existing commercial vessel berthing space;~~
- ~~(c) The proposed nonwater-dependent use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or~~

~~loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or~~

- ~~(d) The siting of a proposed nonwater dependent use will substantially reduce or inhibit existing public access to marine or tidal waters.~~

~~(Ord. No. 168-92, § 2, 1-4-92)~~

~~Sec. 14-320.6. Permitted uses.~~

~~Subject to a determination that the proposed use meets the standards of section 14-320.5.5 (no adverse impact on marine uses):~~

- ~~(a) The following uses are permitted in the waterfront special use zone on both the north and south sides of the railroad line indicated on the City of Portland Zoning Map:~~

~~1. Marine:~~

- ~~a. Marine products, wholesaling, distribution and retailing;~~
- ~~b. Marine repair services and machine shops;~~
- ~~c. Tugboat, fireboat, pilot boat and similar services;~~
- ~~d. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;~~
- ~~e. Marine industrial welding and fabricating;~~
- ~~f. Shipbuilding and facilities for construction, maintenance and repair of vessels;~~
- ~~g. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water~~

~~taxi;~~

- ~~h. Cargo handling facilities, including docking, loading and related storage;~~
- ~~i. Boat repair yards;~~
- ~~j. Boat storage facilities, including rack storage facilities;~~
- ~~k. Seafood processing;~~
- ~~l. Seafood packing and packaging;~~
- ~~m. Seafood loading and seafood distribution;~~
- ~~n. Fabrication, storage and repair of fishing equipment;~~
- ~~o. Ice-making services;~~
- ~~p. Facilities for marine construction and salvage;~~
- ~~q. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;~~
- ~~r. Fabrication of marine-related goods;~~
- ~~s. Fishing and commercial vessel berthing;~~
- ~~t. Noncommercial berthing;~~
- ~~u. Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers;~~
- ~~v. Public landings;~~
- ~~w. Marinas;~~
- ~~x. Intermodal transportation facilities;~~

~~2. Industrial uses:~~

~~Industrial uses which meet the performance standards of the I-2 zone.~~

~~3. Public:~~

~~Pedestrian and bicycle trails.~~

~~The following uses are permitted in the waterfront special use zone only on the north side of the railroad tracks indicated on the City of Portland Zoning Map only in (a) buildings in existence on January 4, 1993, or (b) one (1) new structure per parcel (as defined in 30 A M.R.S.A. Section 4401(6)), which parcel was in existence on January 4, 1993, of up to five thousand (5,000) square feet in total floor area. No construction of a new structure of more than five thousand (5,000) square feet in total floor area or in excess of one (1) per parcel for uses other than those specified in subsections (1) through (3) above is allowed without approval of a conditional use pursuant to section 14-320.6.5 or conditional or contract rezoning pursuant to division 1.5 of this article.~~

~~4. Commercial uses:~~

~~a. Professional, business, and general offices;~~

~~b. Business service establishments;~~

~~c. Restaurants, provided that food service and consumption shall be the primary function of the restaurant;~~

~~d. Cabinet and carpentry shops;~~

~~e. Cold storage facilities;~~

~~f. Museums and art galleries.~~

~~5. Other:~~

~~a. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses or temporary exhibition uses, provided that all such~~

~~exhibition uses on a lot do not exceed a combined total of sixty (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time;~~

- ~~b. Parking: Parking shall be permitted as long as it does not impede access to water by existing or potential marine uses.~~
- ~~c. Institutional uses including marine research, education and laboratory facilities. Such uses shall not include any type of overnight accommodations.~~
- ~~d. Wind energy systems, as defined and allowed in Article X, Alternative Energy.~~

~~6. Public:~~

- ~~a. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water;~~
- ~~b. Municipal uses;~~
- ~~c. Landscaped pedestrian parks, plazas and similar outdoor pedestrian spaces, including without limitation pedestrian and bicycle trails.~~

~~7. Industrial uses:~~

~~Warehousing and wholesaling.~~

~~(Ord. No. 169 93, S 2, 1-1-93; Ord No. 187 99, 1-1-99; Ord. No. 33 11/12, 1-18-12)~~

~~Sec. 14-320.6.5. Conditional uses.~~

~~(a) The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions~~

~~of sections 14-320.5.5, 14-474 and any special provisions, standards or requirements specified below, and further 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. Any use permitted in section 14-320.6(d)2, 4, 5 or 6, (e), (f) or (g), in one (1) new structure of more than five thousand (5,000) square feet, but not more than ten thousand (10,000) square feet in total floor area per parcel.~~

~~(b) The following use shall be permitted only upon the issuance of a conditional use permit subject to the provisions of section 14-474 (conditional uses), and any special provisions, standards or requirements specified below:~~

- ~~1. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:~~

- ~~a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and~~

- ~~b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and~~

- ~~c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and~~

- ~~d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the~~

~~proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and~~

~~e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and~~

~~f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and~~

~~g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and~~

~~h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.~~

~~2. Wind energy systems, as defined and allowed in Article X, Alternative Energy.~~

~~(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12).~~

~~Sec. 14-320.7. Contract or conditional zoning.~~

~~An applicant may only construct a new structure of either more than five thousand (5,000) square feet in total floor area~~

~~for occupancy by uses enumerated in section 14-320.6(d)1, or ten thousand (10,000) square feet in total floor area for occupancy by uses enumerated in section 14-320.6(d)2, 4, 5 or 6, (e), (f) or (g) or in excess of one (1) per parcel for occupancy by those same uses if a rezoning is approved pursuant to division 1.5 of this article. A conditional or contract rezoning shall only be approved if, after public hearing and opportunity for public comment, the reviewing body finds that the applicant has carried the burden of proof to show that the proposed development meets the standards of section 14-320.55 and all of the following standards:~~

- ~~(a) The proposed development is consistent with the comprehensive plan.~~
- ~~(b) The project's public benefits outweigh its potential negative impacts, taking into consideration as public benefits protection of existing water-dependent uses, preservation of future water dependent use development opportunities, contribution to the development of and/or on-going maintenance of the marine infrastructure for commercial vessels (either on or off site), and visual and physical access to the waterfront for the general public.~~
- ~~(c) The proposed development responds to any unique physical conditions and development opportunities along the shoreline.~~
- ~~(d) The proposed development is sensitive to design opportunities and local environmental conditions, makes use of creative design solutions, does not significantly restrict air, light or water views of other structures located in the vicinity and does not create significant adverse local climatic effects such as increased winds, shadowing, or less efficient traffic, parking or circulation patterns.~~
- ~~(e) The proposed development is consistent with the Portland Waterfront Public Access Design Guidelines, a copy of which is on file in the department of planning and urban development.~~
- ~~(f) The proposed rezoning contains adequate provisions and/or conditions to ensure that the water-dependent~~

~~use is not abandoned after the project is developed.~~
~~{Ord. No. 168-93, S. 2, 1-4-93}~~

~~Sec. 14-320.8. Prohibited uses.~~

~~Uses which are not enumerated in section 14-320.6 as permitted or in section 14-320.6.5 as conditional uses are prohibited.~~
~~{Ord. No. 168-93, S. 2, 1-4-93}~~

~~Sec. 14-320.9. Dimensional requirements.~~

~~In addition to the provisions of article III, division 25 of this Code, lots in the waterfront special use zone shall be subject to the following requirements:~~

- ~~(a) Minimum lot size: None.~~
- ~~(b) Minimum frontage: None.~~
- ~~(c) Minimum yard dimensions:~~

~~Front setback: None.~~

~~Side setback: None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty five (25) feet.~~

~~Rear setback: None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty five (25) feet.~~

~~Setback from pier line: Notwithstanding the above requirements, a minimum setback of five (5) feet from the edge of any pier, wharf or bulkhead shall be required for any structure. The setback area may be utilized for activities related to the principal uses carried on in the structure, subject to the provisions of sections 14-313 and 14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).~~

- ~~(d) Maximum lot coverage: One hundred (100) percent.~~
- ~~(e) 1. Maximum building height: Forty five (45) feet, except in the area formed by the projection~~

~~of the centerline of Atlantic Street between its intersections with Wilson Street and the Eastern Promenade easterly to the easternmost boundary of the waterfront special use zone, where facilities for bulk storage of materials delivered to a site by waterborne transportation or awaiting transportation from the site by means of waterborne transportation may be erected to heights that shall not exceed sixty five (65) feet above mean sea level. In those areas where the maximum height may not exceed forty five (45) feet above grade, no structure may exceed sixty five (65) feet in height above mean sea level. For purposes of this section, a projection of the centerline of a street shall consist of an extension of the centerline of the street to the water side boundary of the waterfront special use zone.~~

~~2. Additional bulk, height and location standards for structures exceeding forty five (45) feet in height above grade within the waterfront special use zone:~~

~~a. The maximum horizontal diagonal measurement of portions of a structure, cluster of structures or equipment exceeding forty five (45) feet in height above grade shall not exceed one hundred (100) feet, except that for each foot that the structure, cluster of structures, or equipment is lowered from the maximum permitted height, the maximum horizontal measurement may increase by one (1) foot.~~

~~b. In addition to any other setback requirements, portions of structures or clusters of structures exceeding forty five (45) feet in height above grade shall be set back a minimum of one (1) foot from the exterior property line of the owner of the underlying fee interest for each foot that the structure or cluster of structures exceeds forty five (45) feet in height above grade.~~

- ~~e. No structure or cluster of structures exceeding forty-five (45) feet in height above grade may be located closer than one hundred fifty (150) feet from any other such structure or cluster of structures.~~
- ~~d. The cumulative width of the portion of structures exceeding forty-five (45) feet in height above grade shall not exceed more than thirty (30) percent of the average width of the lot as measured by a line drawn parallel to the water.~~
- ~~e. No structure shall exceed forty-five (45) feet in height above grade within the view corridors established by the projection of the street right-of-way lines for Atlantic Street, Vesper Street or for O'Brien Street.~~
- ~~f. For purposes of this section only, moveable elements such as cranes and gantries, and connection devices such as conveyors or bridges shall not be subject to the space and bulk requirements, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to navigation. Other rooftop appurtenances shall not exceed the maximum height limits set forth in this section.~~
- ~~g. The applicant must provide a determination from the Federal Aviation Administration that structures and equipment will not exceed the applicable height guidelines for the runway approach and will not create a hazard to navigable airspace. Such a determination shall be accepted as conclusive evidence that the proposed development will not create a hazard.~~
- ~~h. Accessory uses in structures which exceed forty-five (45) feet in height above grade shall not be located higher than forty-five~~

City of Portland
Code of Ordinances
Sec. 14-320.6.5

Land Use
Chapter 14
Rev.1-18-12

~~(45) feet within the structure.~~

~~(Ord. No. 168-93, S 2, 1-4-93)~~

~~Sec. 14-320.10. Performance standards.~~

~~All uses in the waterfront special use zone shall comply with the following standards:~~

~~(a) Outdoor storage of materials: Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of forty five (45) feet, and such materials shall be entirely contained, including runoff contaminants and residual material, within a designated area within the lot boundaries.~~

~~(b) Noise:~~

~~1. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the waterfront special use zone between the hours of 7:00 p.m. and 7:00 a.m. from industrial facilities or operations commenced on or after July 1, 1999, shall not exceed fifty five (55) decibels on the A scale at or within the boundaries of any residential zone, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices.~~

~~2. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ).~~

~~3. In addition to the sound level standards otherwise established, facilities or operations established or built in the waterfront special~~

~~use zone on or after July 1, 1988, shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones. Tonal sound is defined as a sound wave usually perceived as a hum or which because its instantaneous sound pressure varies essentially as a simple sinusoidal function of time. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with a duration of less than one (1) second.~~

~~(c) Vibration: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.~~

~~(d) Federal and state environmental regulations: All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.~~

~~(e) Discharges into harbor areas: No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the department of parks and public works in accordance with chapter 24, article III of this Code. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of chapter 24, article II of this Code and federal and state environmental statutes and regulations regarding wastewater discharges.~~

~~(f) Storage of vehicles: Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days shall not be permitted.~~

~~(g) Landfill of docking and berthing areas: Landfill of docking and berthing areas shall be governed by 38 M.R.S.A. Sections 471 through 479, and permitted only if the landfill does not reduce the amount of linear~~

~~berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the department of parks and public works and shall be accomplished in accordance with the provisions of division 25 of this article and in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.~~

- ~~(h) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.~~
- ~~(i) Off-street loading: Off-street loading is required as provided in division 21 of this article.~~
- ~~(j) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.~~
- ~~(k) Lighting: All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.~~
- ~~(l) Signs: Signs shall be permitted as set forth in division 22 of this article.~~
- ~~(m) Storage of pollutants and oily wastes: On-premises storage of pollutants and oily wastes shall not be permitted for more than forty five (45) days.~~
- ~~(n) Compatibility of nonmarine uses with marine uses: Nonmarine uses, structures and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses.~~

DIVISION 17.5. EASTERN WATERFRONT PORT ZONE*

Sec. 14-301. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-300.1. (no adverse impact on marine uses), the following uses are permitted in the Eastern Waterfront Port Zone:

(a) *Marine passenger:*

1. Intermodal marine passenger facilities;
2. Cruise ship home port and port of call berthing and support;
3. International and domestic ferries.

(b) *Marine commercial:*

1. Transient and long-term commercial berthing;
2. Marine-related warehousing;
3. Marine related construction, manufacturing, fabrication, salvage and repair;
4. Storage and repair of fishing equipment;
5. Ship and other marine vessel construction, building, servicing, and repair;
6. Boat and marine equipment storage;
7. ~~Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone; Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;~~
8. Public, non-profit, or commercial marine

transportation and excursion services, including captained charter services, sport fishing and water taxis;

9. Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries;
10. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;
11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26;
12. Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.

(c) Commercial:

1. Professional, business, government, and general office located in upper floors of structures existing as of September 18, 2006.

*Editor's Note-On-site parking for non-marine commercial uses are permitted as conditional uses subject to the provisions of section 14-301.1. (conditional uses, parking) below.

2. Temporary events, except festivals as otherwise governed under section 14-301I3 below.

Buildings, piers and lands within the EWPZ may be used for temporary public and private events including but not limited to exhibitions, conferences, meetings, and trade shows under the following conditions:

- a. Temporary events occupying more than 10,000 square feet of building or outdoor space

shall not exceed a combined total of sixty
(60) days between May 1st to October 31st;

- b. No temporary event may continue for more than 14 days of continuous operation;
 - c. Any temporary event that anticipates more than 5,000 people in attendance on any single day must provide and be subject to a parking management plan. The parking management plan must be submitted for the review and approval of the public works authority at least 60 days prior to the first day of the event.
- 2. Festivals subject to City license.
 - 4. Street vendors licensed pursuant to Chapter 19 as a result of a competitive bid process conducted pursuant to Chapter 2 of the City Code.

(d) *Public:*

- 1. Fire, police and emergency services;
- 2. Governmental agency emergency operations/crisis centers;
- 3. Research, military and visiting attraction vessel berthing;
- 4. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.

(e) *Other:*

- 1. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
- 2. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

(a). The following uses shall be permitted as conditional uses in the Eastern Waterfront Port Zone, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority, and provided further that in addition to the provision of section 14-474(c)(2) such uses will not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and meet all additional standards set forth below:

1. Conditional use standard:

a. *Marine compatibility:* The proposed use shall be compatible with existing and potential marine uses in the vicinity, as required by section 14-304(n) and (o) (compatibility of non-marine uses with marine uses and functional utility of piers and access to the water's edge); and

b. *Parking and traffic circulation:*

i. Parking and traffic circulation plan: All applications for conditional use in the EWPZ shall submit a parking and circulation plan for review and approval by the planning board. The parking and circulation plan shall show the location of all existing and proposed structures, travel ways and parking under the common ownership and/or control of the subject pier or property. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the EWPZ.

2. Conditional uses:

a. *Marine:*

i. Marine products, wholesaling and retailing;

- ii. Ice-making services;
- iii. Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight;
- iv. Marine educational facilities;
- v. Seafood retailing, wholesaling, packaging and shipping;
- vi. Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304;
- vii. Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing;
- viii. Fish byproducts processing, provided that:
 - a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
 - b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-

252); and

- c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.

b. *Commercial:*

- a. Structured parking available to the general public;
- b. Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006;
- c. Passenger support services supporting a marine passenger use listed under 14-301(a) (marine passenger). The total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principle associated marine passenger use and no more than 35,000 square feet cumulative within the EWPZ:
 - i. Retail;
 - ii. Restaurants/food service other than street vendors;
 - iii. Retail service;
 - iv. Passenger information services.

- c. *Industrial:* The following industrial uses are permitted provided that such uses shall conform to the IM zone performance standards set forth in section 14-252 in addition to the performance standards of 14-304. Where redundant or contradictory performance standards exist, the more restrictive standard applies.

- i. Non-marine related warehousing in structures existing as of September 18, 2006;

- ii. Facilities for combined marine and general construction;
- iii. Low impact industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities.

d. *Public:*

- i. *Utility substations:* Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps and telecommunication switching stations, are permitted under the following conditions:
 - a. The facility is located more than 100 feet from the water's edge;
 - b. The facility occupies no more than 50 square feet of structure above ground;
 - c. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise useable and made available for marine related uses, including but not limited to parking, travel ways, and/or storage; and
 - d. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.
- ii. Maritime museums, limited to 5,000 square feet of ground floor footprint.

*Editor's Note-On-site parking for non-marine commercial and industrial uses are permitted as conditional uses subject to the provisions of section 14-301.1. (conditional uses, parking) below.

- e. *Parking for non-marine uses:* Notwithstanding sections 14-304(h), 14-331, 14-334 (regarding off-street parking requirements) and article V (site plan) of this chapter, no parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water-dependent uses that are permitted by section 14-301 (permitted marine uses) and 14-301.1. (conditional marine uses) which are or may be located on the subject property (see editor's note below). The remainder of parking Required, if any, for such non-marine uses shall be provided off-site.

*Editor's Note-Vacant ground floor space should be considered to have a parking demand similar to other space housing an existing water-dependent use elsewhere on the subject property or on a comparable property.

Sec. 14-303. Dimensional requirements.

4. Setback from pier line: Notwithstanding the above requirements, a minimum setback of twenty-five (25) feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 14-301(b)(12), may be located up to five (5) feet from the edge of any pier, wharf or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other non water-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

DIVISION 26. SHORELAND REGULATIONS

Sec. 14-449. Land use standards.

All land uses and land use activities subject to this division shall conform to the following standards and regulations, as applicable:

(a) *Principal and accessory structures:*

1. All principal and accessory structures shall be set back at least seventy-five (75) feet horizontal distance, from the normal high water line of water bodies, the upland edge of a wetland or associated tributary streams within a shoreland zone, except that in the following zones the setback shall be as indicated below:
 - a. B-3, B-5, B-5b, I-L (south and east of I-295), and I-M (south and east of I-295): Twenty-five (25) feet.
 - b. W-C, W-PD, ~~W-SU~~, I-B, EWP: No setback required. Pier edge setbacks apply in EWP (Sec. 14-303(c)(4), W-C (Sec. 14-310(d)(4), and W-PD (Sec. 320.2(c)), ~~and W-SU (Sec. 320.9(e))~~.

For the principle structures, setback measurements shall be taken from the top of a costal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant "Classification of Coastal Bluffs", and published in the most recent Coastal Bluff Map as further referenced on the Zoning Map.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28)

feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, EWP, W-C, W-PD, ~~W-SU~~, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

(b) *Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line of a water body or within a wetland:*

6. Except in the W-C, EWP, W-PD, ~~W-SU~~, and I-B zones, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity;

(c) *Clearing or removal of vegetation:*

1. In all shoreland areas in resource protection

zones, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.

2. The clearing or removal of vegetation standards of this section shall not apply to the following zones: EWP, WCZ, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, B-7, I-L (south and east of I-295) and I-M zones (south and east of I-295).

(j) *Roads and driveways:*

1. Roads and driveways shall be setback a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone, except:

- a. In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, I-L (south and east of I-295) and I-M (south and east of I-295) roads and driveways shall be setback as established for structures in those zones; as specified in Sec. 14-449(a)1.

- b. Where the planning board determines that no other reasonable alternative exists. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream or wetland.

(k) *Parking areas:* Parking areas shall be set back a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone except:

1. In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, I-L and I-M zones, parking setbacks shall be as established for structures in those zones; as specified in Sec. 14-449(a)1.

2. Parking setbacks in the S-P (stream protection) zones are as established in Division 26.7.

3. Where the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream, the board may reduce the parking setback requirement to no less than fifty (50) feet in the R-OS, and I-B zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.

DIVISION 22. SIGNS

Sec. 14-369.5. Tables.

(a) Table 1. Permitted sign types by zone.

Note: The following legend applies for Table 1 below:

- A. Allowed, no permit required;
- B. Allowed, permit required;
- C. Allowed, subject to licensing and permit required;
- D. Prohibited;
- E. Not Applicable

Parenthetical letters, i.e. (a), refer to the notes provided at the end of Table 1.

	I-N, I-Ma, I-Mb Industrial	I-H, I-Hb Industrial	Eastern Waterfront Port Waterfront Central Waterfront Special-Use	Waterfront Port Development
Freestanding	B	B	B	B
In general(b)				
ResidentialI	A	A	A	A
Residential(d)	A	A	A	A
Temporary/ Portable (b)	D/D	B/D	D	D
Building	B	B	B	B
Commercial				
Banner				
Building	A	A	A	A
Marker(f)				
Awning	B	B	B	B
Identification(e)	A	A	A	A
Incidental(d)	A	A	A	A
Marquee(g)	B	B	B	B
Projecting	B	B	B	B
Residential(b)	A	A	A	A
Roof	D	D	D	D
Roof Integral	D	D	D	D
Suspended(g)	B	B	B	B
Temporary(h)	B	B	B	B
Wall	B	B	B	B
Window(I)	A	A	A	A
Miscellaneous	A	A	A	A
Community, Cultural Banner				
Directory(j)	A	A	A	A

Flag(k)	A	A	A	A
Pennant	D	D	D	D
Portable-in				
City right-of-way				
(A-frame)	D	D	C	D

Contents of Table 2:

2.1 Sign Regulations for R-1-R-7, IR-1-IR-3 Residential Zones

2.2 Sign Regulations for Institutional Uses in Residential Zones

2.3 Sign Regulations for RP Residence-Professional Zone

2.4 Sign Regulations for ROS/RPZ Open Space Zones & Signs in all Municipal Parks

2.5 Sign Regulations for B-1 Neighborhood Business Zone - Single Tenant Lots

2.6 Sign Regulations for B-2 Regional Business Zone - Single Tenant Lots

2.7 Sign Regulations for AB Airport Business Zone - Single Tenant Lots

2.8 Sign Regulations for B-3 Downtown Business, B-5 Urban Commercial, B-6 and B-7 Mixed Use Urban, WC Waterfront Central, ~~WSU Waterfront Special Use~~, and EWP, Eastern Waterfront Port Zones

2.9 Sign Regulations for IB Island Business Zone - Single Tenant Lots

2.10 Sign Regulations for B-4 Commercial Corridor Zone - Single Tenant Lots

2.11 Sign Regulations for OP Office Park Zones

2.12 Sign Regulations for I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb Industrial and WPD Waterfront Port Development Zones

2.13 Sign Regulations for B-1, B-2, AB, IB, and B-4

Business Zones -- Multi-Tenant Lots

2.14 Sign Regulations for Gas Stations -- All Zones Where Permitted

TABLE 2.8 SIGN REGULATIONS BY ZONE

Downtown Business (B-3), Urban Commercial (B-5), and Waterfront Central (WC), ~~and Waterfront Special Use (WSU)~~ Zones

Proposed amendments from Land Use Code regarding massing and permeability in B-6 and EWPZ

Sec. 14-524. Site plan review processes.

14-524(a)(3)(c)(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.

Sec. 14-526. Site plan standards.

14-526(d) *Site Design Standards*

9. *Zoning Related Design Standards:*

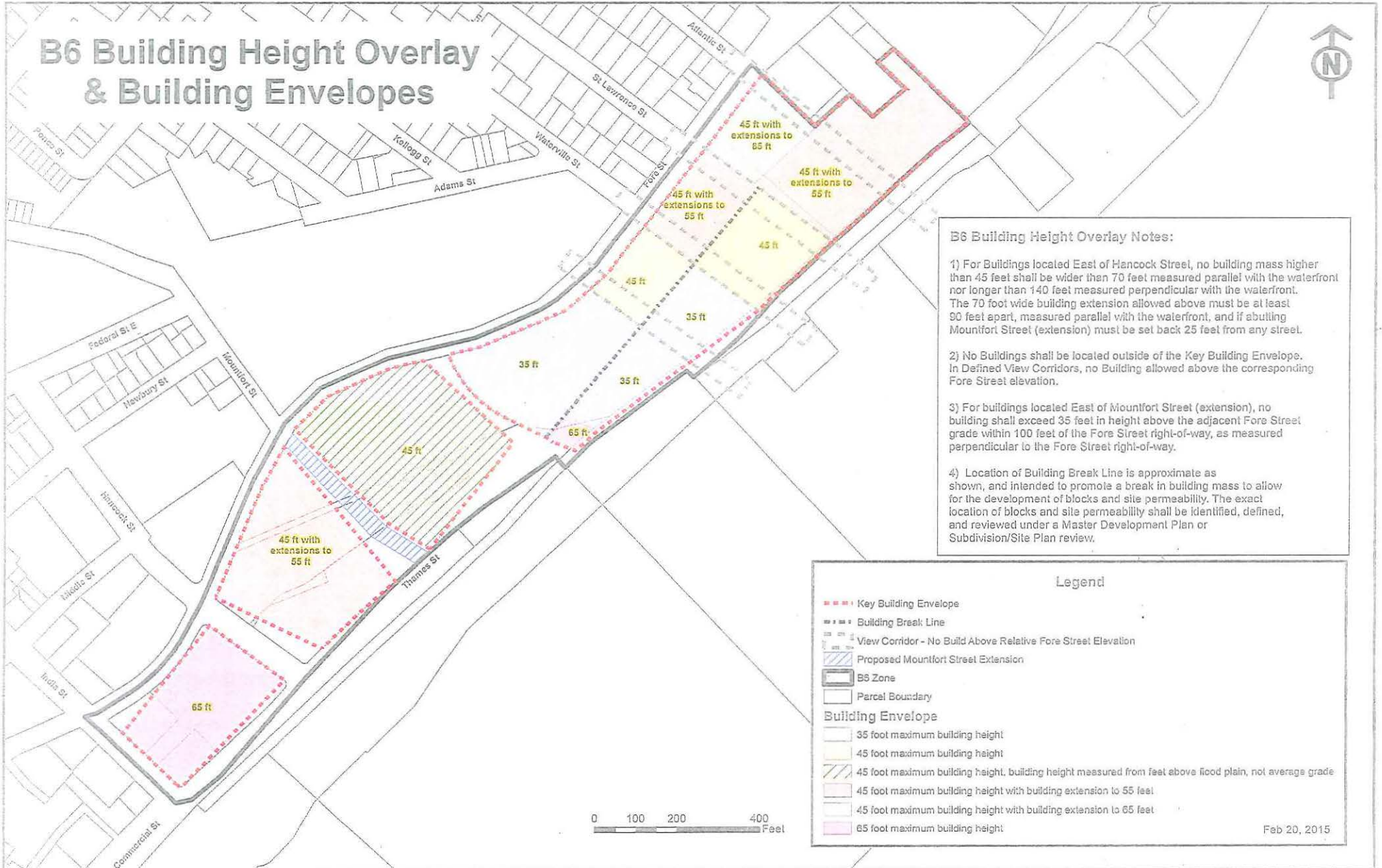
a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland 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) B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual. New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.

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.

B6 Building Height Overlay & Building Envelopes



B6 Building Height Overlay Notes:

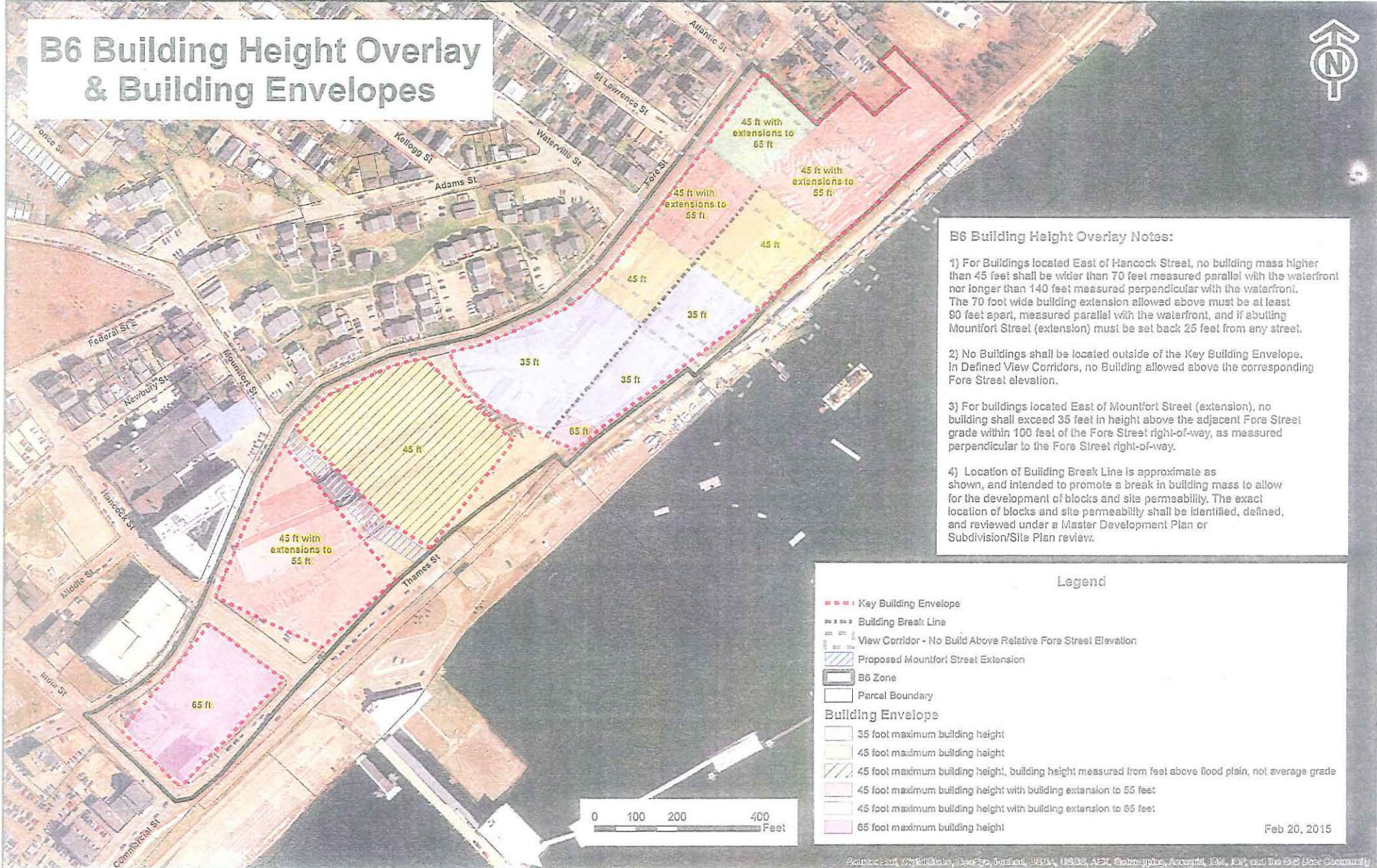
- 1) For Buildings located East of Hancock Street, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70 foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
- 2) No Buildings shall be located outside of the Key Building Envelope. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
- 3) For buildings located East of Mountfort Street (extension), no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
- 4) Location of Building Break Line is approximate as shown, and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Subdivision/Site Plan review.

Legend

- Key Building Envelope
- ... Building Break Line
- View Corridor - No Build Above Relative Fore Street Elevation
- /// Proposed Mountfort Street Extension
- B6 Zone
- Parcel Boundary
- Building Envelope**
 - 35 foot maximum building height
 - 45 foot maximum building height
 - 45 foot maximum building height, building height measured from feet above flood plain, not average grade
 - 45 foot maximum building height with building extension to 55 feet
 - 45 foot maximum building height with building extension to 65 feet
 - 65 foot maximum building height

Feb 20, 2015

B6 Building Height Overlay & Building Envelopes



B6 Building Height Overlay Notes:

- 1) For Buildings located East of Hancock Street, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70 foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
- 2) No Buildings shall be located outside of the Key Building Envelope. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
- 3) For buildings located East of Mountfort Street (extension), no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
- 4) Location of Building Break Line is approximate as shown, and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Subdivision/Site Plan review.

Legend

- Key Building Envelope
 - Building Break Line
 - View Corridor - No Build Above Relative Fore Street Elevation
 - Proposed Mountfort Street Extension
 - B6 Zone
 - Parcel Boundary
- Building Envelope**
- 35 foot maximum building height
 - 45 foot maximum building height
 - 45 foot maximum building height, building height measured from feet above flood plain, not average grade
 - 45 foot maximum building height with building extension to 55 feet
 - 45 foot maximum building height with building extension to 65 feet
 - 65 foot maximum building height

Feb 20, 2015

**Memorandum**

Office of the Waterfront Coordinator

To: Mayor Brennan and Members of the City Council**From:** Bill Needelman, Waterfront Coordinator**Date:** April 3, 2015**Re:** Background on the Eastern Waterfront Master Plan *Building Height Map*

On March 30, I participated in the Council's Portland Company workshop to provide background and context for the discussion over the adoption of the Eastern *Waterfront "Height and Building Envelopes Map"* (*Illustration 33*) back in December 2004. My intent in participating in the Workshop was to clarify that the specific *Illustration 33* dated September 2004 was indeed the current and only *height map* passed by the Council for inclusion in the Comprehensive Plan.

Following the workshop, a widely circulated video clip of an exchange between then Councilor James Cloutier and me, dated November 1, 2004, has raised questions over the meaning of the *Illustration 33*. The content of the clip indicates my opinion at the time that buildings on the Portland Company site in the vicinity of Atlantic Street, the far easterly portion of the study area, would not extend over Fore Street. Below I offer observations to add context to the video clip.

Firstly, the adopted *Illustration 33* was one of many possible iterations of height maps contemplated through the master planning process – some informing shorter buildings, some showing taller, all subject to interpretation. In November 2004, the resolution of which scenario would be adopted and how each height map could be interpreted was the focus of extensive discussions by the Planning Board, the community, and the Council. The circulated clip shows only a few seconds from hours of conversation. Whether or not my expressed opinions in the clip refer to the adopted map may be of interest to close observers of legislative process; however, I suggest that such an inquiry is of little relevance to the current discussion.

Personally and professionally, I am proud of my work and contributions to the Eastern Waterfront planning process. However, the relevant components of that process concluded more than 10 years ago. My past opinions of how to interpret a map have been supplanted by a decade of time, an evolving city, new staff, a real development application, a new and well-reasoned Planning Board recommendation, and most importantly, a new City Council. *Illustration 33*, like all policies (those in the Comp Plan and otherwise,) can and should be interpreted by the City Council under the lens of the City's current conditions and values.

Respectfully submitted.

WBN

389 Congress Street/www.portlandmaine.gov/tel.207-874-8689/tty.207-874-8936/fax. 207-874-8669



Memorandum
Planning and Urban Development Department

To: Mayor Brennan and Members of the City Council
From: Christine Grimando, Senior Planner
Date: March 27, 2015
Re: Zoning Map and Text Amendments for 58 Fore Street

To assist the discussion at the March 30th Workshop a detailed timeline of policy, zoning and application timelines pertinent to the application for map and text amendments for 58 Fore Street follows.

COMPREHENSIVE PLAN & ZONING IMPLEMENTATION TIMELINE

The planning process that led to the adoption of the *Master Plan for Redevelopment of the Eastern Waterfront*, *Eastern Waterfront Building Height Study*, and *Design Guidelines for Development of the Eastern Waterfront*, and associating zoning changes, began in early 2000.

- **January 2000.** The eastern waterfront planning process began, kicking off a series of community forums and design workshops, and the formation of a Waterfront Development and Master Planning Committee.
- **June 3, 2002.** A first phase of the Master Plan was accepted in 2002, focused on the uplands of Ocean Gateway.
- **January 2004 to September 2004.** Two Planning Board workshops and a neighborhood meeting were held on the Waterfront Building Height Study.
- **September 10, 2004**
 - The Planning Board voted to recommend the *Master Plan for Redevelopment of the Eastern Waterfront*, *Eastern Waterfront Building Height Study*, and *Design Guidelines for Development of the Eastern Waterfront*.
 - The Planning Board voted to recommend the adoption of the B-6 zone and the B-6 Building Height Overlay. Between January 2003 and September 2004, the Planning Board held 15 meetings reviewing iterations of Eastern Waterfront Zoning.
- **October 4, 2004**
 - Order 79-04/05. Order Amending City's Comprehensive Plan Re: Eastern Waterfront Master Plan, Including Eastern Waterfront Height Study. Postponed to 10/18/2004

- Order 80-04/05 Amendment to Zoning Map Re: Rezoning From WPD, WSU, B-5 and B-2b to B-6 (Waterfront Port Development, Waterfront Special Use, Business – 5 and B-2b to Business -6) and from WSUZ to ROS and Adoption of Zoning Text Change Vicinity: Eastern Waterfront. First reading.
- **October 18, 2004**
 - Order 79-04/05. Order Amending City's Comprehensive Plan. Postponed to 11/1.
 - Order 80-04/05. Amendment to Zoning Map. Postponed to 11/1.
- **November 1, 2014**
 - Order 79-04/05. Order Amending City's Comprehensive Plan. Postponed to 11/29.
 - Order 80-04/05. Amendment to Zoning Map. Postponed to 11/29.
- **November 29, 2004**
 - Order 79-04/05. Order Amending City's Comprehensive Plan. *No action taken on the Comprehensive Plan on November 29.*
 - Order 80-04/05. Amendment to Zoning Map. *Seven amendments were proposed to the zoning amendment, (six passing), including changes to the extent of the new B-6 zone; to amend the order to keep the height limit consistent at 45 feet in the B-6 Zone; to amend the amendment to exclude the area bounded by Fore Street, India Street, Hancock Street and the new Commercial Street Ext., leaving the height in this area at 65 feet; to amend the amendment to reduce the height to 55 feet in the area bounded by Fore Street, Hancock Street, Mountfort Street and the new Commercial Street Ext.; and for the addition of tower setbacks.*
- **December 8, 2004**
 - Order 79-04/05. Amending City's Comprehensive Plan Re: Eastern Waterfront Master Plan, Including Eastern Waterfront Height Study - Sponsored by Joseph E. Gray, Jr., City Manager. Motion was made by Councilor Cloutier and seconded by Councilor Gorham for passage. Passage 9-0.
 - Order 80-04/05. Amendment to Zoning Map Re: Rezoning From WPD, WSU, B-5 and B-2b to B-6 (Waterfront Port Development, Waterfront Special Use, Business – 5 and B-2b to Business -6) and from WSUZ to ROS and Adoption of Zoning Text Change Vicinity: Eastern Waterfront. Motion for passage already on the floor and amended at the 11/29/04 meeting when this item was postponed. Passage of amendment, as amended, 9-0. Passage of order, as amended, 9-0.

- **September 2006**

- Master Plan for Redevelopment of the Eastern Waterfront Amended to include IX., Policy Statement for Maine State Pier.
- The Waterfront Port Development Zone was rezoned to the Eastern Waterfront Port Zone in September 2006.

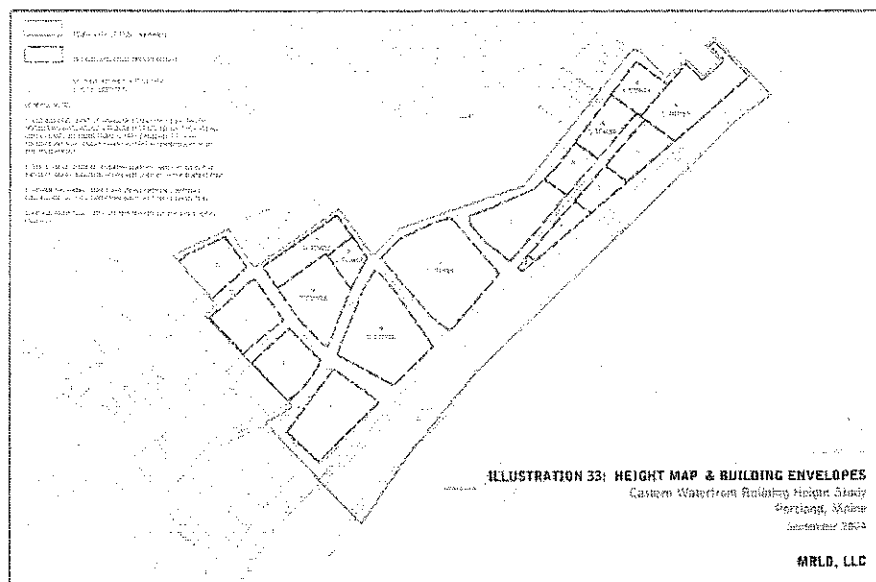
APPLICATION BY CPB2 LLC

- August 22, 2014. Application submitted to Department of Planning & Urban Development
- September 17, 2014. Neighborhood Meeting
- October 21, 2014. Planning Board Workshop
- November 18, 2014. Planning Board Workshop and Site Walk
- February 10, 2015. Planning Board Workshop
- February 24, 2015. Planning Board Public Hearing

DISCUSSION

These twin planning processes, the creation of three Comprehensive Plan documents and implementation of associated zoning for the same area, occurred on concurrent timelines. The initiation of the Comprehensive Plan process preceded zoning implementation, but there was significant overlap, until the fall of 2004 when they were voted on by the City Council on the same dates.

The Comprehensive Plan amendments are referenced as Order 79-04/05. The *Eastern Waterfront Building Height Study* includes a map, Illustration 33 (Figure 1), which is the guiding policy document for building heights in the Eastern Waterfront. City records show there was a great deal of debate as to the appropriate heights in this area, and there are numerous iterations of Illustration 33 that were discussed at public forums, Planning Board meetings, and Council meetings, through the fall of 2004. Not-adopted versions include maps with heights as high as eight stories, and maps with recommendations for heights measured from flood plain, among others. Ultimately, a map with more moderate heights than earlier versions, making no mention of flood plain, was adopted in December 2004. The version of Illustration 33 that was forwarded to the Council in their packets for the October 4, 2004 meeting, and that was adopted at the December 8, 2004 meeting, was dated September 2004. The item appeared on three agendas between October and December, and there is no record of the September version of Illustration 33 being amended before adoption.



Regarding the implementation of the associated Eastern Waterfront zoning, each of the five meetings that took place through October, November, and December 2004 included review of a map of the B-6 zone and the accompanying height overlay (*B-6 Building Height Overlay & Building Envelopes*, Figure 2), referenced as Order 80-04/05. The creation of the B-6 zone and the B-6 Height Overlay map were the first steps in implementation of the Eastern Waterfront Comprehensive Plan documents. Both the extent of the B-6 zone and the height parameters of the B-6 zone were amended by the Council in November 2004, resulting in a height overlay zoning map that included a reference to flood plain for one of the building envelopes, east of Mountfort Street.

In sum, the only amendments to the various Eastern Waterfront documents approved in December 2004 are to Order 80-04/05, the B-6 zoning map amendment. Order 79-04/05 and Order 80-04/05 both pertain to the Eastern Waterfront but they are distinct, the former being a policy document, the latter zoning, and each were subject to discreet actions by the Council. Because these were reviewed on the same evenings, as part of an overlapping planning process, it is essential to distinguish between the two. Staff has reviewed recordings of meetings, paper files, and digital files, and has found no discrepancy between what the Council adopted in 2004 and the versions that have been reviewed in the course of the 58 Fore Street application as the basis for staff and Planning Board assessments of Comprehensive Plan consistency. The Council may ultimately make different findings on the proposed map and text amendments than the Planning Board has recommended that are also in general harmony with the Comprehensive Plan, but concern for a discrepancy in the adopted policy documents need not be the basis for that Council's decisions on this application.

David P. Silk
1187 Westbrook Street
Portland, ME 04102-1928

CITY OF PORTLAND, MAINE

MAR 31 2015
City Managers Office

March 31, 2015

Christine Grimando, Senior Planner
Planning and Urban Development Department
City of Portland
389 Congress Street
Portland, ME 04101

RE: Zoning Map and Text Amendments for 58 Fore Street
Applicant and Property Owner CPB2 LLC

Dear Christine:

As a former Planning Board member during the period when the Master Plan for Redevelopment of the Eastern Waterfront ("Master Plan") was developed and adopted, I write to urge Mayor Brennan and Members of the City Council to vote in favor of the proposed zoning map and text amendments for 58 Fore Street as recommended unanimously by the present Planning Board.

The proposed zoning map and text amendments are entirely consistent with the Master Plan. 58 Fore Street was one of the parcels included within the Master Plan. When the Master Plan was adopted, the zone created to implement the Master Plan – the B-6 Eastern Waterfront Mixed Zone – was also adopted. At that time, the 58 Fore Street parcel was not included within the B-6 Eastern Waterfront Mixed Zone. The then owner of 58 Fore Street (the Portland Company) did not desire any zone change because any zone change would have broadened the permissible uses at 58 Fore Street. Zone changes of a particular parcel are typically enacted only at the request of the property owner. Property taxes are assessed based on the highest and best legally permitted uses. With a zone change, the then property owner of 58 Fore Street faced the prospect of a higher tax bill. Since the then owner had no plan to change the use at the site, it urged that the new zone not extend to 58 Fore Street. As a result, at the time of

the adoption of the B-6 Eastern Waterfront Mixed Zone, 58 Fore Street was not included in new zone.

But the Master Plan clearly contemplated that when any redevelopment occurred at 58 Fore Street, the zoning amendments adopted to implement the Master Plan, B-6 Eastern Waterfront Mixed Zone, should become applicable to 58 Fore Street. That is why rezoning 58 Fore Street today to be included in the B-6 Eastern Waterfront Mixed Zone is wholly consistent with the Master Plan, which in turn is part of the City's Comprehensive Plan.

Much has been said recently on views. As part of the master planning process, the Planning Board in 2004, working extensively with staff and an outside consultant, prepared a height study for the Fore Street area, inclusive of the Portland Company parcel at 58 Fore Street. I recall taking site visits in the area and walking on public ways in and around the area in order to consider possible configurations of height limitations, public view corridors and key building envelopes to preserve public view corridors. Many workshops were held on the matter. Eventually, those corridors and key building envelopes were all identified in the study and are depicted therein. The study clearly contemplated placing buildings and height on the south side of Fore Street inclusive of all of the Portland Company property using average grade as the base for measuring building height. See illustration 33 dated September 2004 as an example.

Ultimately the City Council in 2004 adopted the height overlay map after reducing the proposed maximum heights in one area east of Hancock Street from that recommended by the Planning Board. It made no change to using average grade as the baseline, which has been the same baseline used on all post 2004 projects in the Eastern Waterfront. The B-6 zone adopts the height overlay map for the area located in that portion of the B-6 zone between Fore and Commercial Streets. Because 58 Fore Street was then not included in the B-6 zone, the height overlay map did not extend to 58 Fore Street but it was the intent for the height overlay map to apply, along with the B-6 zone, to 58 Fore Street once the prospect for new development arose. Using average grade as the base to measure height at 58 Fore Street is entirely consistent with the 2004 height study and height overlay map then adopted.

Christine Grimando, Senior Planner

March 31, 2015

Page 3

As part of the Planning Board site visits back in 2004, we walked on the Fore Street sidewalk from the top of the Eastern Prom from Fort Allen Park to what would become Hancock Street. From both sides of the sidewalk I observed that (and the same holds true today) there is no view of Casco Bay for much of the walk due to the height of the existing residences located on the top of the hill on the east side of Fore Street. Those four or five residences pretty much block all pedestrian views of the harbor. I recognized during the site visit as I am sure others did that any development of the 58 Fore Street parcel would occur at the base of the hill. With either the heights proposed by the Planning Board in 2004 or as adopted by the City Council in 2004 development along at the 58 Fore Street parcel would not come close to mirroring the massing created by the residences running along the hill to the park.

The Planning Board focused on preserving public view corridors of the bay for anyone walking down Atlantic and St. Lawrence Streets and proposed building envelopes to preserve those views. Had the overlay map in 2004 then been extended to include 58 Fore Street, those view corridors were accounted for by proposed building envelopes and heights as measured from average grade.

The Planning Board often hears concerns expressed with any development on loss of views. It is inevitable with any development that views will change. The pedestrian view today of City Hall from the Back Cove is different from twenty years ago. Most of City Hall, probably the most prominent landmark in the City, now cannot be seen from the Back Cove as it is blocked by recent development. When Maine Med expanded, pedestrian views of the western mountains from a large portion of the Western Prom were lost. The parking garage at the base of Marginal Way at Commercial Street blocked pedestrian views of the bay. There are countless other examples where new development has altered pedestrian views.

In the area near 58 Fore Street, there remain wonderful and ample views. Fort Allen Park all the way to the west is part of the Eastern Prom Master Plan and provides panoramic views for pedestrians. Portland Trails provides excellent pedestrian views as well including views of the harbor from or abutting the 58 Fore Street Parcel. With these multiple locations for pedestrian viewing remaining, it is difficult to accept the notion that the development of the 58 Fore

Christine Grimando, Senior Planner

March 31, 2015

Page 4

Street Parcel pursuant to the height overlay map using the same average grade base as has been applied in the zone will result in significant loss of pedestrian views of the bay. In addition to the view corridors looking toward the east over the parcel, what will remain for pedestrians descending Fore Street is the remarkable view of the Old Port and Fore River. That dramatic pedestrian view will remain. The sense of open space and hill will remain.

Hopefully soon the vacant parcels across from the garage at the base of India and Fore will be developed. That will mean a loss of pedestrian views of the bay from the side walk along Fore Street. But that is ok as it was never envisioned back in 2004 that the area across from the garage should not be developed so as preserve a view at pedestrian height from the Fore Street sidewalk of the bay. The trail located a block away provides those views. Similarly it was never considered that the development along Fore Street from Hancock Street to the Portland Company parcel should be restricted to preserve a pedestrian view looking east of the bay for those walking down the hill on the sidewalk. The park is right up the top of the hill and trail is located a block away. The clear goal was that these areas east of Fore Street would be developed into a vibrant mixed use urban area. That meant that the view looking east of Fore Street from India Street to the Portland Company parcel would be primarily of a urban area with view corridors maintained of the bay. Pedestrian views of the bay remained unimpeded only a block away, along the trail or up past the existing residences at the Park. The 2004 Height Overlay Map was sound when adopted and remains sound today as applied to 58 Fore Street.

I hope the Mayor and Members of the City Council will vote in favor of the proposed zoning map and text amendments using average grade as the base as recommended unanimously by the present Planning Board. Approval will allow for development of the parcel in a manner fully consistent with and as envisioned by the Master Plan. Also it will accomplish the very laudable goal, not always achieved, of development actually occurring in the City that is entirely consistent with a Master Plan.

Sincerely



David P. Silk

Lannie Dobson - Re: Fwd: 58 Fore Street

From: Lannie Dobson
To: Christine Grimando
Subject: Re: Fwd: 58 Fore Street

>>> Christine Grimando 2/6/2015 9:24 AM >>>
Hi Lannie,

I had sent this and one other to Jen yesterday, but I'm resending for good measure.

Christine

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> Christine Grimando 2/5/2015 6:24 PM >>>
Hi Jen,

More public comment.

Christine

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> Angela Adams <aaa@angelaadams.com> 2/5/2015 6:10 PM >>>

Dear Chairman O'Brien, Members of the the Planning Board and Senior Planner Ms. Grimando,

As a Portland resident, property owner and business owner I am writing to express my concerns regarding the proposed development of the 10 acre site known as The Portland Company and located at 58 Fore Street.

This parcel of land is critical to our city and the lifestyle that we all embrace as residents and business owners. It is most often the first thing you see as you fly in, the first thing you see entering the harbor by boat, ferry or cruise ship and it is the route the leaf peepers, tourists and locals use to show off the beauty of our coastal city from Fore Street. Developing this site is an exciting idea and if done thoughtfully and with the residents of the neighborhood and city in mind, Portland could have a world class waterfront that is enjoyed by all.

The Portland Company history is a critical part of the DNA of our city and a national treasure. Maine has a long history of craft and innovation and there is no better example of this than the Portland Company.
The historic importance of this site is of national significance:

- It is the only surviving pre-civil war locomotive manufacturing facility in the country
- It was critical to the development of many industries in Maine, including the textile industry, paper making and canning industries
- The company's development of Maine's railroads and the shipping industry are of significant importance
- This site is the only intact industrial complex from the 19th and early 20th century remaining in the city today
- Architecturally, the buildings which were built in the 1840's and 1850's are the only remaining industrial buildings of that era in our city.
- The Portland Company buildings as a whole, comprise the historic manufacturing process that allowed them to manufacture everything on one site (outside of the boiler construction) and was the only facility in the nation to do this on one site.
- The maritime significance is immense as our lighthouse components, lanterns and navigational buoys were manufactured there.
- Bug Light, the lighthouse at the entrance to Portland Harbor was made at the Portland Company complex.

The list goes on and on as to the historical significance of this site and I urge you to please consider preserving the existing buildings and maintaining the integrity of this important historical site.

Preserving the existing buildings is only one of my primary concerns. The other is in regard to the overall design of this project, the magnitude of it and it's importance to our city. As a designer, I am well aware of the time and consideration that must go into designs and projects in order for them to be great. We all know what a less than thoughtful development looks like and it's always unfortunate to see this, especially in our beautiful city.

My concern is that in order for the most valuable piece of our city to be designed in such a way that is worthy of it's spectacular site, it must be done in the most thoughtful process possible. It should be done incrementally and with intermittent approvals that allow the city to manage the process and development in such a way that prevents it from being a one sided project that benefits developers far more than an entire city of people that live and work here. The developers are asking for a zone change that would grant broad changes to the site that greatly benefit them and that could have a disastrous impact on the city's waterfront and surrounding neighborhood. An alternative to granting the zone change request is to instead change the zone to a Contract Zone that would allow the city to monitor the development and manage the evolution of the project in such a way that works both for the developers and the residents of the city. This property is too important for us to hand the keys over to developers that, like all developers, will have very different intentions for the site than the city does. This site cannot be developed simply for the benefit of investors.

Like everyone else I know, I live here because I love the fact that Portland is located on the waterfront. Many of us would have a much easier time running a business in other cities, but we choose Portland because it is a great place to live and because it is a beautiful city located on the ocean. We all get to enjoy the spectacular views, watching the boats and planes come and go and walking along the trails that line the waterfront.

This property is not like other properties you have been asked to vote on. This is the MOST valuable property in our city and our state. It must be treated differently and with the greatest care and consideration for the future or we will forever look longingly back on the days when it was a more integral part of our lives and city and not just a big business deal that made a lot of investors and developers very wealthy. We need to preserve the integrity of the historic site and the value of the waterfront views for greatest number of people and not simply for the wealthy that have the resources to purchase it. It's the reason we all live here and we need to be thoughtful about every aspect of it's future.

Sincerely,

Angela Adams

Angela Adams
Co-Founder, Creative Director

angela adams
273 Congress Street Portland, Maine 04101
(207) 774 8523 / ext. 203 fax (207) 874 8819

From: Barbara Vestal <vestal@chesterandvestal.com>
To: Christine Grimando <CDG@portlandmaine.gov>
Date: 2/5/2015 3:15 PM
Subject: Portland Company Complex
Attachments: 58 Fore - average grade vs. flood plain.pdf

3-D Height and Massing Study, 58 Fore Street, Portland, Maine,

Prepared for Keep the Soul of Portland in the Portland Company by Rob Whitten, Whitten Architects.

Submitted to the Portland Planning Board for the 2/10/2015 workshop by Barbara Vestal due to Rob Whitten's absence from the country. Rob Whitten is expected to be back for the February 10th workshop to briefly explain the study in person.

Background and Methodology:

At the request of Keep the Soul of Portland in the Portland Company (SOP), Whitten Architects (WA) prepared a graphic 3D representation of the Portland Company site and the surrounding Portland neighborhoods using Google Earth information and 3D modeling. They used it to show the maximum possible site coverage and maximum possible heights as currently proposed by the applicant in a much more detailed scale than the previous submissions of the applicant. The applicant's submissions represented maximum build-out heights by dividing the 10 acre site into 9 large blocks, and using the average grade within each of those large blocks as the baseline. Due to the extreme change in grade in some parts of the site, the applicant's methodology minimized the height impact in the portion of the site closest to Fore Street.

In contrast, the study prepared for SOP divided the 10 acre site into 35' by 35' squares, and calculated average mean height within each square. Then it applied the proposed allowable height to each 35' by 35' square. The resulting graphic representation shows the possibilities and limits of the proposed heights and massing as proposed by the applicant. The representation is NOT a design. It does NOT represent specific buildings. Where there are proposals for "extensions" or "towers", WA did not select where they would be located. Instead the extension is shown over the full area where it could be located. It should be noted that according to the existing proposal, these extensions would be limited to a width of 70' parallel with the water and a depth of 140' perpendicular to the water and would have to be separated by at least 90'.

In summarizing the methodology, Rob Whitten of Whitten Architects states:

We overlaid the Portland Company site with a 35' x 35' grid and used it to calculate the average mean height within each 35' square. We worked with Google height information in 5' contours. The grid is more or less parallel to Fore Street and the waterfront edge of the Portland Company site. We then took the 2004 Eastern Waterfront Planning information for Building Envelopes and Heights including view easements and established a height for each of the 35' x 35' grids. (Note: this is the same as proposed by the applicant, except that the applicant additionally proposes to limit heights immediately along Fore Street to 35 feet for a distance of 35 feet back from Fore Street. The WA study used the same 35' for 35' limit.) In the video, none of the Fore Street heights exceed 35' above Fore Street for a depth of 35'. The heights are approximate. They are only as good as the Google information.

The CPB2 submission treated each height area as a big block, which results in lower heights along Fore Street. In the video diagram we broke them into the smaller 35' x 35' units which results in more accurately representing the higher heights that would be allowed along Fore Street. It is a logical representation of the Eastern Waterfront Master Plan Height Overlay description as interpreted by the applicant.

The heights show what is possible on the Portland Company site as re-zoned to a B-6 zone. The 3D diagrams do not show buildings or any sort of design. The diagrams show the maximum possible site coverage and the maximum

possible heights in 35' x 35' sizes. Note that we show all possible options for height extensions in the B-6 zone. The Height Overlay extensions are limited to a variety of blocks and options relative to the waterfront. How they are placed and organized is a building and site design process.

There are two ways to interpret the Eastern Waterfront Building Height Study height overlay illustration 33 (from which the zoning is derived). The applicant asserts that maximum heights should be measured from average grade. SOP asserts that the maximum heights should be measured from "FEET ABOVE FLOOD PLAIN, NOT FROM AVERAGE GRADE". SOP asserts that measuring heights from flood plain is consistent with the intent of the Eastern Waterfront Height Study, which emphasizes placing taller buildings in the "shadow areas" below Fore Street. Measuring from flood plain is also consistent with how the B-6 zoning was implemented in the adjacent block when it was rezoned to B-6. In that rezoning of the waterfront area from India Street up to (but not including) the 58 Fore Street property, the City adopted as part of the building height overlay: "For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade."* As the 58 Fore Street is east of Mountfort Street and the same condition of steep slopes toward Fore Street applies, the same method of measuring heights should apply.

It should also be noted that the WA representation is based upon conservative assumptions in showing height and massing. It calculates grade using existing, pre-development grade. In fact, as height is traditionally calculated for mainland Portland, it is based on post-development grade. The applicant could fill portions of the site, resulting in greater finished heights. Similarly the WA representation shows flat-roofed buildings with no roof-top appurtenances. In fact, actual heights could be higher if a different roof form is used (e.g. for a peak roof parallel to Fore Street, half of the roof from the eaves to the peak could exceed the applicable height limit) and if there are HVAC units, stairway access units, satellite dishes, decks or other non-occupied elements on the roof.

Videos of the Results of the Height and Massing Study:

There are two ways to view the results of the study. One way is to go to the website of SOP at www.soulofportland.org and click on Height Study and Other Links and scroll down a few inches. Posted on that website are images from Vimeo files.

You may also go directly to Vimeo by using the following link:
<http://vimeo.com/album/3202655/video/116566665>

The "first video" that appears on the website (a portion of the Keep the Soul of Portland in the Portland Company 3-D Height and Massing Study prepared by Whitten Architects) shows the maximum potential massing under the zoning currently proposed by the developer* if building heights are measured from average grade*. This shows the maximum potential massing going up Fore Street toward the Eastern Prom.

Videos have been made of additional views of the developer's proposed massing as rendered in the SOP study, showing an overview (long), going along the Eastern Prom Trail heading away from India Street, going down Fore Street, and going down Atlantic, St. Lawrence and Waterville Streets toward the "view corridors" as now proposed. Each of these videos assumes heights measured from average grade, as proposed by the developer.

They may be seen at www.soulofportland.org at Height Study and Other Links, or you may go directly to Vimeo by using the following links:

<http://vimeo.com/album/3202655/video/116573487> (overview)

<http://vimeo.com/album/3202655/video/116565732> (Eastern Prom Trail heading away from India St.)

<http://vimeo.com/album/3202655/video/116567730> (heading down Fore St. toward the Old Port)

<http://vinco.com/album/3202655/video/116568347> (Waterville Street "view corridor")

<http://vinco.com/album/3202655/video/116569060> (St. Lawrence Street "view corridor")

<http://vinco.com/album/3202655/video/116569828> (Atlantic Street "view corridor")

Images Comparing the Impact of Measuring from Average Grade or Flood Plain

The *next sets of six still shots *show a series of comparisons of the maximum potential massing under the same zoning, first showing massing if building heights are measured from average grade (as contended by the developer) and then, from the same location, *if building heights are measured by feet above flood plain (as asserted is proper by SOP)*. Only portions of the site are shown in these views. Whether height is measured from average grade or from flood plain only makes a significant difference in the massing in the vicinity of Fore Street. The captions in the bottom right identify location and method of measurement. They are attached to this e-mail as a pdf file.

--

Barbara A. Vestal, Esq.
Chester & Vestal, PA
107 Congress Street
Portland, Maine 04101
(207) 772-7426 - phone
(207) 761-5822 - facsimile

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this message in error, please notify us immediately by telephone and e-mail.

CHESTER & VESTAL

A PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

107 Congress Street, Portland, Maine 04101

Telephone (207) 772-7426 Fax (207) 761-5822

EDWIN P. CHESTER
BARBARA A. VESTAL
MICHAEL P. DIXON

chester@chesterandvestal.com
vestal@chesterandvestal.com
dixon@chesterandvestal.com

February 5, 2015

Chair O'Brien and Members of the Planning Board
c/o Christine Grimando
Planning Department
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Portland Company Complex

Dear Chair O'Brien and Members of the Planning Board,

The Portland Company Complex, a very visible 10 acre gateway site, is critical to the identity of Portland. As the applicant needs a zone change of some variety in order to proceed with uses that are not currently allowed, the Board has the opportunity to craft zoning that is fully reflective of the best use of that site. It is important for the City to get its zoning right. I firmly believe that the B-6 zone is not the answer for the reasons outlined below.

1. THE B-6 ZONE WAS NOT DRAFTED TO APPLY TO THE PORTLAND COMPANY SITE.

During the course of the Eastern Waterfront master planning process, an "Ultimate Build-out Scheme" scenario was developed by the Planning Office in the spring of 2002. It included City-owned land, the parcel referred to as the Farley-Marino property and some land belonging to Shipyard Brewing. It did not include the Portland Company Complex because its owner was not interested in redeveloping his property at that time. That illustration is attached as Exhibit A.

The Eastern Waterfront Master Plan generally recommended mixed use development for upland areas of the Eastern Waterfront, including the Portland Company Complex. But it did not recommend that the Portland Company Complex be rezoned from WSUZ to B-6. Mixed use development on the Portland Company Complex can be accommodated within the existing WSUZ regulation.

Between the spring of 2002 and its adoption in December 2004, the Planning Board developed and forwarded to the City Council the proposed B-6 Eastern Waterfront Mixed Use Zone. It applied only to the properties east of India Street, north of Commercial Street and its extension, west of the Portland Company complex, and south of Fore Street. It did not include the Portland

Company Complex (See Exhibit B). This area was denoted the "Central Redevelopment District." In some documents the Shipyard Property, which was eventually developed as the Gateway Parking Garage and the Residence Inn, was included in the discussion as well. However, the B-6 zoning which was enacted in December 2004 applies only to the "Central Redevelopment Area," without the Shipyard properties.

2. THE B-6 ZONE MANDATES A VERY SPECIFIC FORM OF DEVELOPMENT WHICH IS A POOR FIT FOR THE PORTLAND COMPANY SITE

The B-6 zone is a variation of a form-based code. The attached Ultimate Build-out Scheme (Exhibit A) set the stage for a form of urban development that is woven throughout the zoning language. It is very specific to the three blocks that were rezoned to B-6.

The Ultimate Build-out is premised upon a re-connected grid of public streets and public sidewalks (Hancock St., Mountfort St. and an unnamed/unbuilt street adjacent to 58 Fore St.) The parking is directed to the interior of each block (light blue), with structures accommodating mixed uses wrapped around the parking (dark blue). There are virtually no provisions for the consideration of existing buildings, because the area of the Ultimate Build-out is composed of vacant land, surface parking lots, and metal industrial structures which will be razed in the event of development. The B-6 ordinance incorporates unique dimensional requirements to produce this Ultimate Build-out -- e.g., "built to lines," 10 foot maximum setbacks from "build to lines," minimum street wall lengths, and minimum heights -- and requires for ground floor retail space to create new, very dense urban space.

Poor Fit: Already Existing Structures: In contrast to the 3 blocks of B-6, the Portland Company Complex is already significantly occupied by historic buildings. The majority of these buildings are of the character which should be adaptively reused, as stated in the Master Plan and the Design Guidelines. Contrary to assuming a virtually blank slate, as the B-6 does, the Design Guidelines state:

Historically and architecturally significant structures and sites should be inventoried and protected from demolition and carefully rehabilitated in a way that is consistent with their original architectural intent. The challenge and opportunity is to adaptively reuse significant structures while retaining their historic character (Design Guidelines, p.7).

The form-based code approach of the B-6 zone is inconsistent with the goals for the important buildings already occupying a portion of this site.

Poor Fit: No Street Grid: There is no street grid proposed for 58 Fore which will produce the basic building blocks of the B-6 zone -- blocks surrounded on four sides by public streets. The only streets proposed are the existing Fore Street (which is well above the grade of most of the

existing buildings and the "Portland Company Alignment" where no buildings will be allowed. Presumably the no build area will serve as a street, but it is not clear whether it will be public. The B-6 zone relies upon public streets and public sidewalks on both sides of the streets to make the land publicly accessible, thus securing a benefit for the general public. There is no such similar street grid proposed on the Portland Company site.

The rest of the circulation pattern on the Portland Company site has yet to be determined, and may consist of private lanes. This is the opposite of the B-6 zone which relies upon a grid of public streets and sidewalks to assure public access.

Poor Fit: Build-to Lines Nonsensical: In the existing B-6 zone, the dashed lines are "key building envelopes." The B-6 zone states:

New structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes [sic] shown on the *Eastern Waterfront Building Height Overlay Map*. (14-272(c)(3))

These build-to lines are tied to the building envelopes, not to streets. The Overlay Map which the applicant proposed to apply to 58 Fore Street has 9 building envelopes. There are eight "built to" lines that do not abut streets or the edge of the parcel. It is unclear what the zoning intends to accomplish by requiring build-to lines in the eight locations where build-to lines are in the middle of a parcel, not bounded by a street. Similarly the impact of overlaying this grid of build-to lines on top of historic structures is unclear.

Poor Fit: High-Density Urban Pattern of Development: The type of development that would be produced by the B-6 standards is similar to the Ocean Gateway Garage and the Residence Inn. Even beyond the question of whether the provisions are effective to generate ground floor active uses (given that the "retail space" in the Gateway Garage has been vacant since it was constructed), it is important to ask whether this is, in fact, the type of development desired at 58 Fore St. It may make more sense to first settle the issue of whether the 58 Fore Street site, or some portion of it, is going to be designated a local historic district before casting the form of new development in stone as do the very detailed standards in the B-6 zone.

Poor Fit: Brew Pubs, Restaurants, etc. Incompatible with Immediately Adjacent Residential Neighborhood: The B-6 zone was designed to abut other commercial uses. Extending that zone to 58 Fore Street gives no consideration to the established residential neighborhood which, for over 100 years, has overlooked, but not interacted with, the 58 Fore Street property except at its single entrance. The substantial change in grade has acted as a buffer between the industrial use and the residences. The proposed extension of the B-6 to 58 Fore St. completely disregards this traditional buffer.

Except for the Portland Company site itself, both sides of Fore Street in the vicinity of 58 Fore St. are occupied by residential uses, mostly in small scale 1-3 family structures, with the exception of the Portland House. There are no existing non-residential uses except for one small insurance office, which may be a home occupation. The Munjoy Hill neighborhood moving north from Fore Street is of a similar, entirely residential, character.

In contrast, if the entire 58 Fore St. site is rezoned to B-6 as proposed, it would allow a developer to build, as of right, on the south side of Fore Street hotels, retail space, offices, restaurants, brew pubs and any number of other uses facing the residential neighborhood. It would require at least 75% of the street wall of whatever use to be built out to within 10 feet of Fore Street. And, in a provision that is inconsistent with how the maximum height limits should be applied to this site, it would require that uses facing Fore Street not have less than three (3) floors of habitable space above the average adjacent grade. This scale and range of permitted uses is completely out of character and incompatible with the existing, long-standing residential uses.

While these non-residential uses might belong in the area where the existing B-6 is located and on the filled land portion of 58 Fore Street, they are completely inappropriate on the upper portion of Fore Street. A rezoning to allow the incursion of this type of commercial use into a residential area that has no such similar uses would be unprecedented.

3. THE EXISTING B-6 ZONE REFLECTS CAREFUL PLANNING OF PUBLIC VISTAS WHICH HAS NOT YET BEEN UNDERTAKEN IN RELATION TO THE PORTLAND COMPANY SITE.

The B-6 Building Height Overlay & Building Envelopes evidences a level of planning to preserve public views and vistas from public streets that has not yet taken place on the 58 Fore Street site. In the overlay, the building envelopes are pulled back from street lines and the street space is splayed out to enhance public views. If serious consideration is being given to a B-6 rezoning for 58 Fore Street, that same level of detailed vista analysis needs to be done for that site. The Height Study just assumes that the existing buildings will remain on the site, and that the vistas over the existing buildings will remain. The study did not look at the impacts of new construction on the vistas.

4. THE CIRCULATION PATTERN WITHIN THE PORTLAND COMPANY COMPLEX, PARTICULARLY FOR WATER-DEPENDENT USES, NEEDS TO BE CONSIDERED PRIOR TO ADOPTION OF THE HEIGHT OVERLAY.

The B-6 dimensional requirements appear to allow limited space for driveways between buildings which are arranged around the build-to lines. But it is unclear whether these will be private or public within the 58 Fore Street site. It is also unclear whether they will be sufficient to provide the circulation patterns to allow continued existence of marine uses under the WSUZ.

The preface to the Eastern Waterfront Master Plan states: "the water's edge is the most precious resource we have" (p. 2). Similarly, the Design Guidelines note that the challenge is to preserve the value and marine utility of the water's edge while stimulating appropriate upland development for the benefit of the general population (p. 14). The Community Development Committee of the City Council, prior to recommending approval, added a section to the Master Plan noting the challenges of implementing the Master Plan. It reemphasized the importance of the working waterfront and full utilization of deep-water berthing resources, stating:

The challenge will be to maximize the benefits of mixed-use non-marine development, while retaining the function and future flexibility of the Eastern Waterfront as a pivotal intermodal hub in Maine's transportation system. Transportation utility of the Eastern Waterfront will require constant and vigilant protection (Master Plan, p. 21).

The circulation pattern within the 58 Fore Street site is critical to maintaining the functionality of the water's edge. The current circulation pattern does not allow for any obvious vehicular access to the water's edge. The building envelopes do not suggest any circulation pattern. As protection of the utility of the water's edge has been identified as a primary goal, it should be addressed as part of any rezoning.

5. THE "PORTLAND COMPANY ALIGNMENT" NEEDS TO BE CONSISTENT WITH THE ORIGINAL HEIGHT STUDY RECOMMENDATION

Illustration 33 of the Height Study (Exhibit C) shows a "Portland Company Alignment" (a no-build area) that was carefully located to preserve views from the B-6 area into the Portland Company Complex and line up to avoid the existing historic buildings. Building envelopes in the B-6 zone were pulled back to preserve the view into the heart of the historic buildings. However, in the applicant's proposed overlay map (Exhibit D), the no-build area has been moved so that views from the B-6 zone are not preserved. It also cuts across existing buildings.

It is unclear whether shifting this alignment is intentional or an oversight. If it is intentional, the applicant should make it clear that it is asking for an amendment to the height overlay and explain the basis for the change in the alignment. However, as it was carefully located as part of the Height Study design process, it would seem that there is good reason for keeping the original alignment.

6. THE APPLICANT'S POSITION THAT HEIGHTS AT 58 FORE SHOULD BE MEASURED FROM AVERAGE GRADE IS INCORRECT, AND WOULD RESULT IN A DEVELOPMENT WHICH IS OUT OF SCALE WITH THE RESIDENTIAL NEIGHBORHOOD

One of the primary goals of the Eastern Waterfront Height Study was to balance the needs of the study area against the surrounding "impact areas", including the Munjoy Hill residential

neighborhood. As part of that balancing, it identified three "shadow areas" where development could be located that would not negatively impact the adjacent areas. The upper Fore Street shadow area was identified to justify a height of 65 feet, due to the large change in grade.

Obviously, the large change in grade would not be cited as a reason to allow that extra height if it was anticipated that the extra height would be located at the top of the slope, as is contended should be allowed by the applicant. As is clear in the Building Height Study, it was intended that the resulting extra-tall structure would be located on the filled land portion of the site.

The November 2004 graphic, prepared by the height consultant after the adoption of the Building Height Study as part of the Master Plan (Exhibit E), includes as General Note 2:

The height of buildings and tower masses east of Mountfort Street or its extension shall be measured from 2' above the flood plain elevation for the site based on the National Geodetic Vertical Datum. Where allowed, building mass above 4 floors shall not be wider than 70 feet parallel with the waterfront nor longer than 140 feet perpendicular with the waterfront. [Emphasis added]

This graphic applies to the entire study area, including the Portland Company site.

This method of calculating height was carried over one month later into the December 2004 Council-adopted B-6 Building Height Overlay & Building Envelopes, which states in Note 4:

For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade (Exhibit B). [Emphasis added]

Thus, not only does it make sense for heights for the entire area east of Mountfort Street extension to be measured from flood plain based upon the substance of the height study, but it is also consistent with what the City actually enacted in the B-6 zone.

CONCLUSION: EXTENSIVE MODIFICATIONS TO B-6 OR OTHER ALTERNATIVES

The B-6 zone is not an appropriate zone to import to the heart of residential Munjoy Hill unless it is very significantly modified to keep the impact and uses down on the filled land. Moreover, the urban form the B-6 tries to create is incompatible with the existing historic structures and protection of the water's edge for the working waterfront.

If the City is still considering importing the B-6 zone to 58 Fore Street, the zoning text for the B-6 would require multiple modifications, including, but not limited to:

- (1) there should be a very substantial mandatory minimum setback from Fore Street (greater than 150 feet) for all new construction which would override the otherwise required build-to line and keep commercial uses from being developed on the southern side of Fore Street;
- (2) the building height overlay should specify, as it does for the block of B-6 adjacent to 58 Fore Street, that "the heights shall be measured from feet above flood plain, not from average grade";
- (3) the minimum height requirement of 3 stories should be deleted for this portion of the B-6 zone as being inconsistent with the historic buildings; and
- (4) the circulation pattern established as part of the height overlay and the dimensional requirements in the B-6 text, particularly the built-to lines, should be re-examined and modified as necessary to respond to the Master Plan goals of adaptive reuse of historic structures, protection of the utility of the water's edge for water-dependent uses, and preservation of public visual access to the water.

Much additional study is required to determine what pattern of development is appropriate for this site and how successfully the form-based code developed for the three blocks in the "Ultimate Build-Out Scenario" translates to an entirely different location.

In lieu of essentially rewriting the B-6 zone text to make numerous exceptions for 58 Fore Street, it would be better to leave the B-6 text alone and not expand its scope. That would leave the applicant with two options: applying for some form of contract zone under the existing WSUZ, or proposing text amendments to the WSUZ.

The WSUZ as written anticipates that any new mixed use development over 5,000 square feet will be reviewed as a contract zone, using the standards contained in the existing WSUZ text. In the past, the City has required very detailed plans to accompany any conditional rezoning. However, there is nothing in the enabling legislation or in the City's own ordinance pertaining to contract zones that requires that level of detail.

The applicant has made it clear that it does not want to invest in developing plans to the level of detail previously required by the City in order to pursue a contract zone. If the City finds that reasoning compelling, the applicant and the City should explore whether there is a more conceptual way to approve a conditional rezoning that clarifies, in general terms, what each will get in exchange for agreeing to a conditional rezoning, without requiring a site plan level of detail. Perhaps conditions more in the nature of performance standards would provide a way for the City to give the applicant the certainty it says it needs to proceed while still enacting a conditional rezoning that will run with the land to any new owner.

Chair O'Brien & Board
February 5, 2015
Page Eight

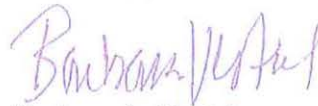
In the alternative, now that the Farley-Marino site has been rezoned to B-6, 58 Fore Street is the only property remaining in the WSUZ. That fact offers the opportunity for carefully crafted amendments to the text of the WSUZ which are designed to allow a thoughtful version of the proposed development. It would obviate the need to comply with the precedent set by the City for conditional rezonings.

The applicant would have to reveal enough of its concepts and plans to allow discussion of text amendments. The amendments would likely identify sub-areas of the site for different treatment, such as permitting a certain range of uses only on the filled land. Similarly it could allow for new construction in locations and meeting dimensional requirements that are not incompatible with the existing historic structures. It could be in the nature of form based code, but designed for this particular location.

There is no reason to make tortured amendments to the B-6 or have portions of the B-6 apply only to the 58 Fore Street site when, due to the geographic scope of the existing WSUZ, the City can amend that zoning text directly to allow the development it wants to permit.

The applicant bought the property with the WSUZ in place. The burden is on the applicant to show that it will be in the best interest of the City to modify the zoning requirements. The Master Plan does lend support for upland mixed uses, provided they are balanced with protecting the water's edge for marine uses. But moving the B-6 zone over to encompass 58 Fore Street is like trying to jam a square peg in a round hole. As there are at least two viable better alternatives, I urge you to recommend that request for rezoning to B-6 not be approved.

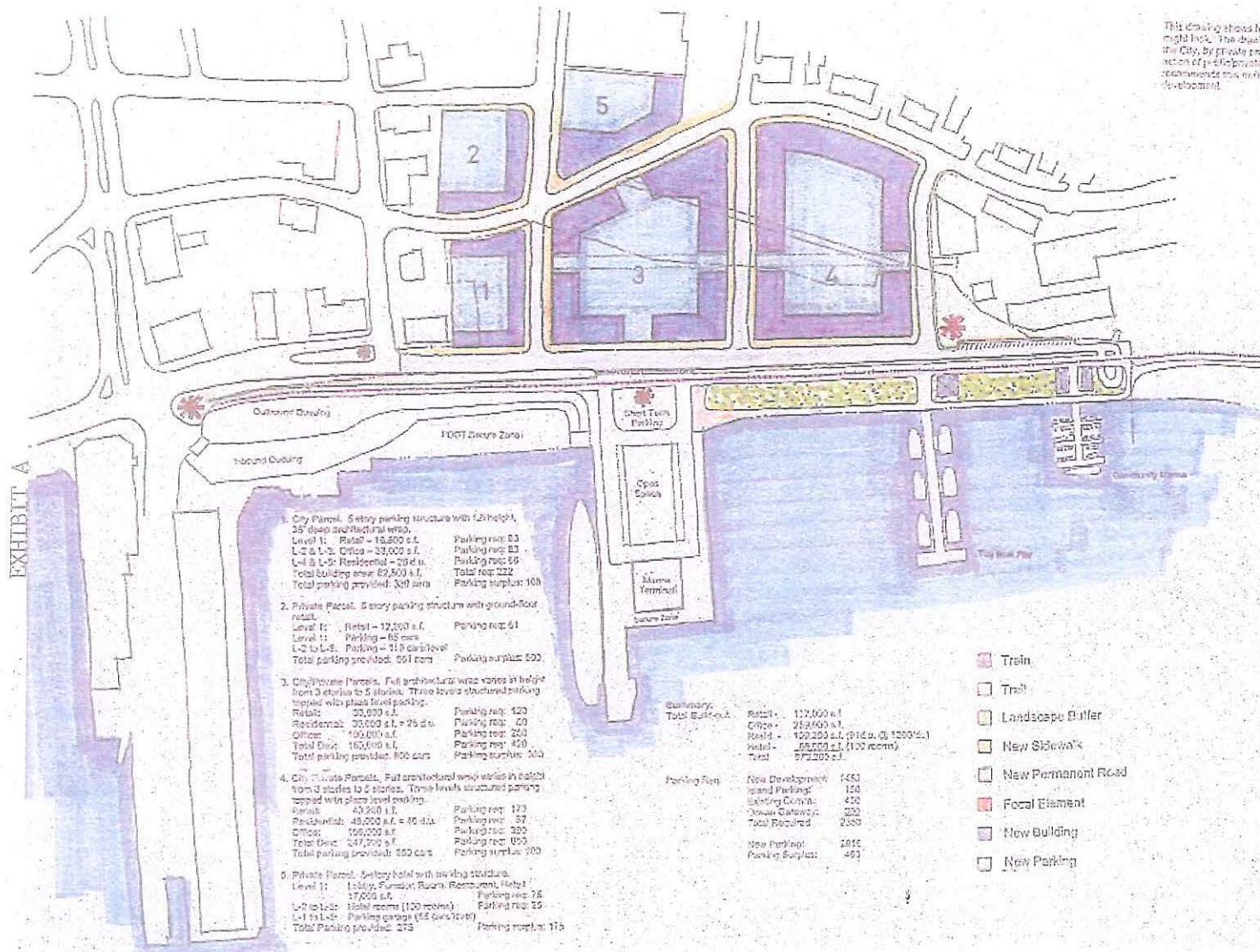
Very truly yours,



Barbara A. Vestal

BAV/om
Enclosures
cc: Christine Grimando

This drawing shows the ultimate build-out of the district might look. The drawing illustrates development initiated by the City, by private property owners, and by cooperative action of public and private property owners. The Committee recommends this enhancement and integrated approach to development.



Portland Planning Office
Spring 2002

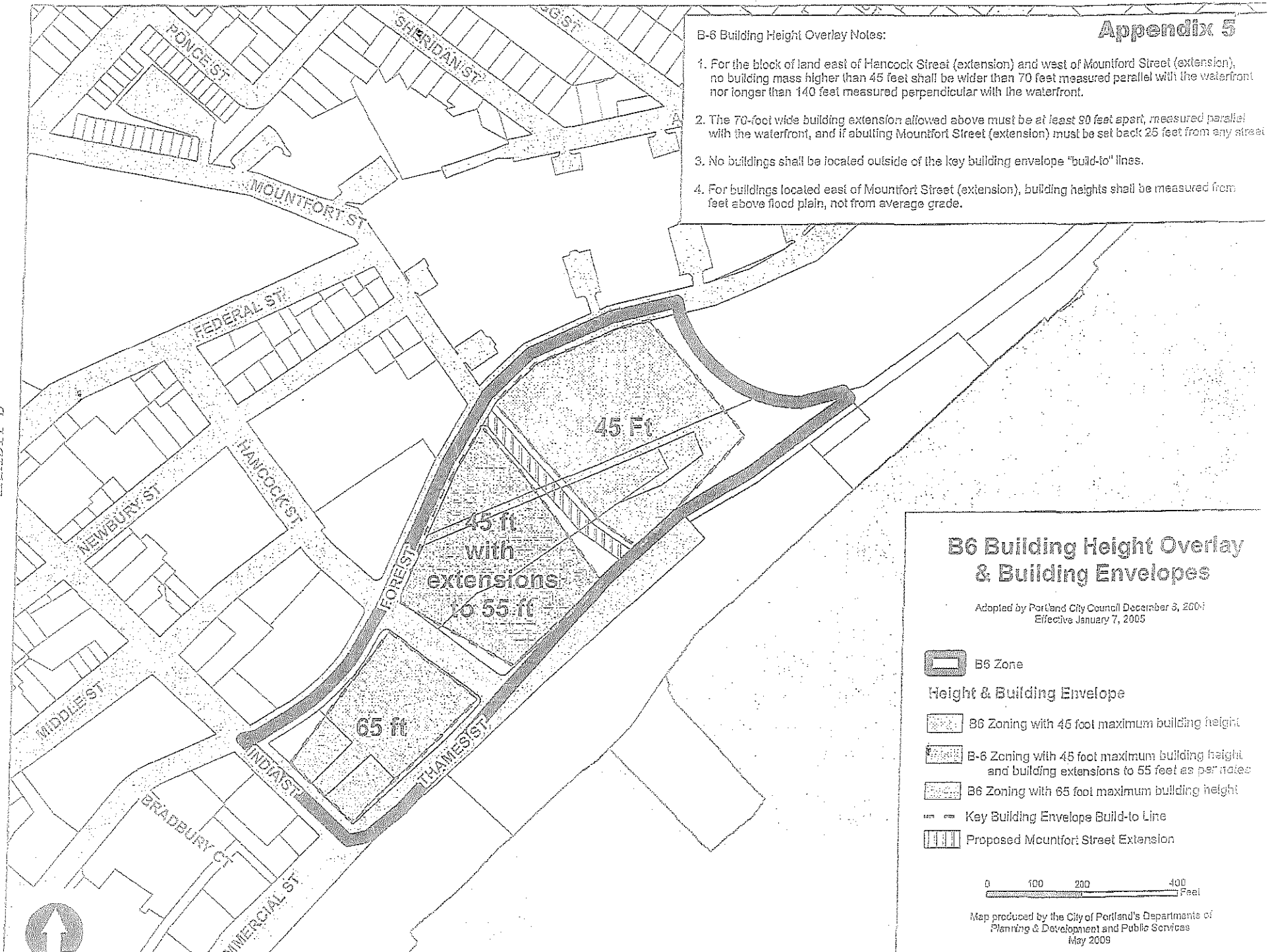
Ultimate Build-out Scheme
Joint Development of City/Private Parcels

Waterfront Development and
Master Planning Committee

3

B-6 Building Height Overlay Notes:

1. For the block of land east of Hancock Street (extension) and west of Mountfort Street (extension), no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront.
2. The 70-foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
3. No buildings shall be located outside of the key building envelope "build-to" lines.
4. For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade.



B6 Building Height Overlay & Building Envelopes

Adopted by Portland City Council December 3, 2001
Effective January 7, 2005



B6 Zone

Height & Building Envelope



B6 Zoning with 45 foot maximum building height



B-6 Zoning with 45 foot maximum building height and building extensions to 55 feet as per notes



B6 Zoning with 65 foot maximum building height



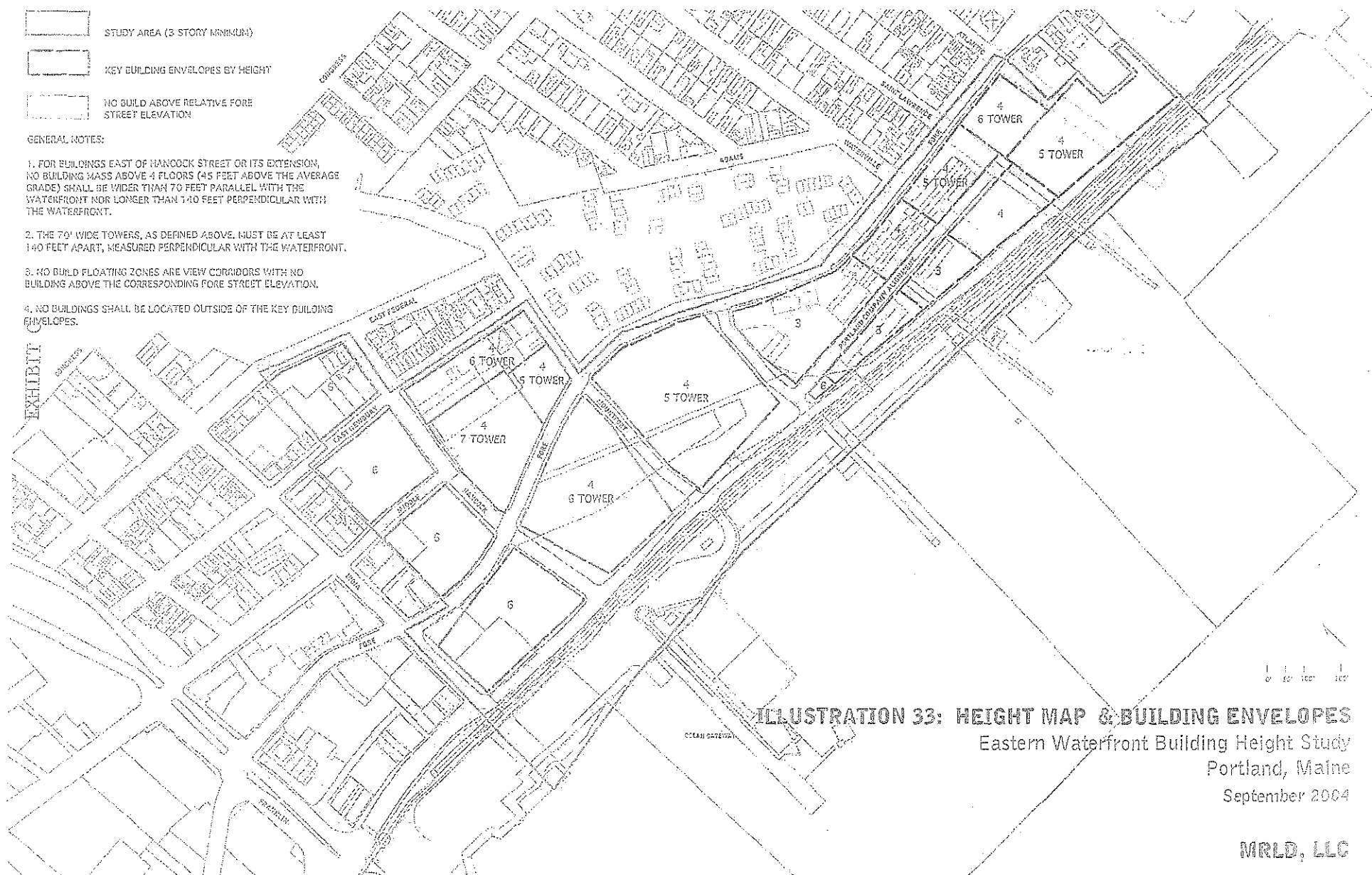
Key Building Envelope Build-to Line



Proposed Mountfort Street Extension

0 100 200 400 Feet

Map produced by the City of Portland's Department of
Planning & Development and Public Services
May 2009



Legend:

- 1**
 - Maximum Building Height Above Average Grade: 35'
 - Average Fore Street Elevation: 33'
 - Approximate Average Grade of Building Envelope: 24'
 - Average Height above Fore Street: 26'
 - Max Height above Fore Street: 29'
- 2**
 - Maximum Building Height Above Average Grade: 45'
 - Average Fore Street Elevation: 45'
 - Approximate Average Grade of Building Envelope: 30'
 - Average Height above Fore Street: 30'
 - Max Height above Fore Street: 34'
- 3**
 - Maximum Building Height Above Average Grade: 45' - 55'
 - Average Fore Street Elevation: 61'
 - Approximate Average Grade of Building Envelope: 38'
 - Average Height above Fore Street: 27'
 - Max Height above Fore Street: 35'
- 4**
 - Maximum Building Height Above Average Grade: 45' - 65'
 - Average Fore Street Elevation: 80'
 - Approximate Average Grade of Building Envelope: 50'
 - Average Height above Fore Street: 25'
 - Max Height above Fore Street: 35'

Please Note:
Average Grade was approximated for each location by averaging the 4 corners of each B6 Building Height Overlay building envelope. City Planning process will require a detailed calculation of average grade based on future proposed building footprints.

Map Labels: Kellogg St, Adams St, Waterville St, Fore St, St. Lawrence St, Waterville, Maine, 0 100 200 400 Feet, N.

Map Annotations: 45 ft with extensions to 65 ft, 45 ft with extensions to 55 ft, 45 ft, 35 ft, 65 ft, 45 ft.

- Maximum Building Height Above Average Grade: 35'
- Average Fore Street Elevation: 33'
- Approximate Average Grade of Building Envelope: 24'
- Average Height above Fore Street: 26'
- Max Height above Fore Street: 29'

- Maximum Building Height Above Average Grade: 45'
- Average Fore Street Elevation: 45'
- Approximate Average Grade of Building Envelope: 30'
- Average Height above Fore Street: 30'
- Max Height above Fore Street: 34'

- Maximum Building Height Above Average Grade: 45' - 55'
- Average Fore Street Elevation: 61'
- Approximate Average Grade of Building Envelope: 38'
- Average Height above Fore Street: 27'
- Max Height above Fore Street: 35'

- Maximum Building Height Above Average Grade: 45' - 65'
- Average Fore Street Elevation: 80'
- Approximate Average Grade of Building Envelope: 50'
- Average Height above Fore Street: 25'
- Max Height above Fore Street: 35'

Please Note:

Average Grade was approximated for each location by averaging the 4 corners of each B6 Building Height Overlay building envelope. City Planning process will require a detailed calculation of average grade based on future proposed building footprints

-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2' ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM. WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

3. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.

4. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.

5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

EXHIBIT E

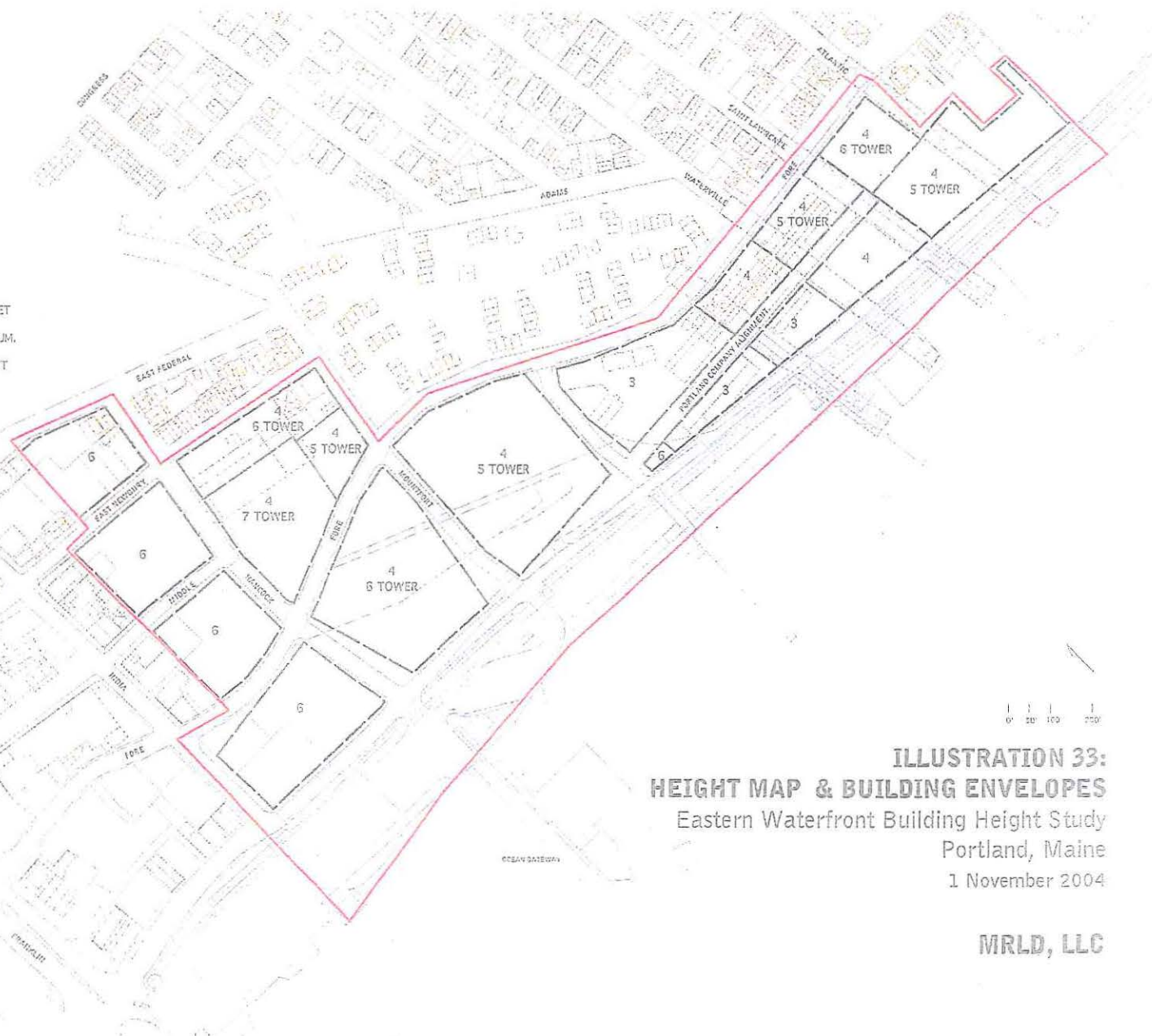
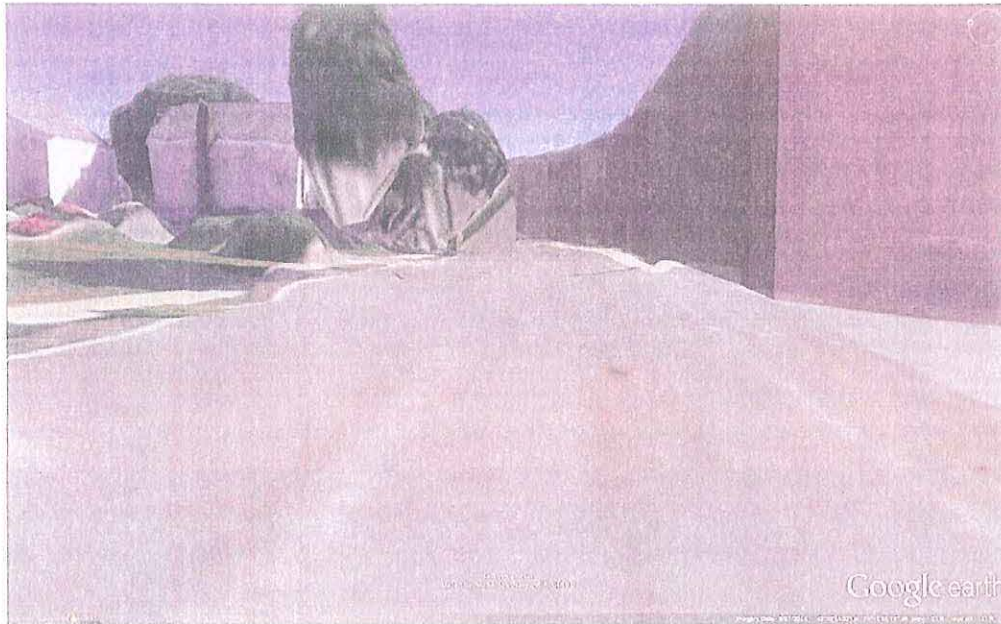


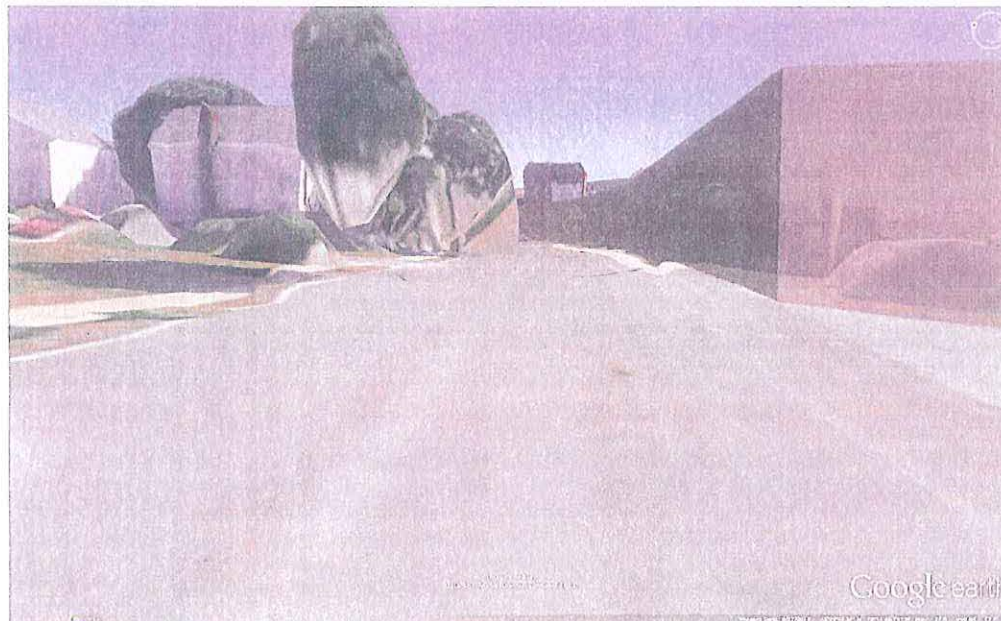
ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

MRLD, LLC



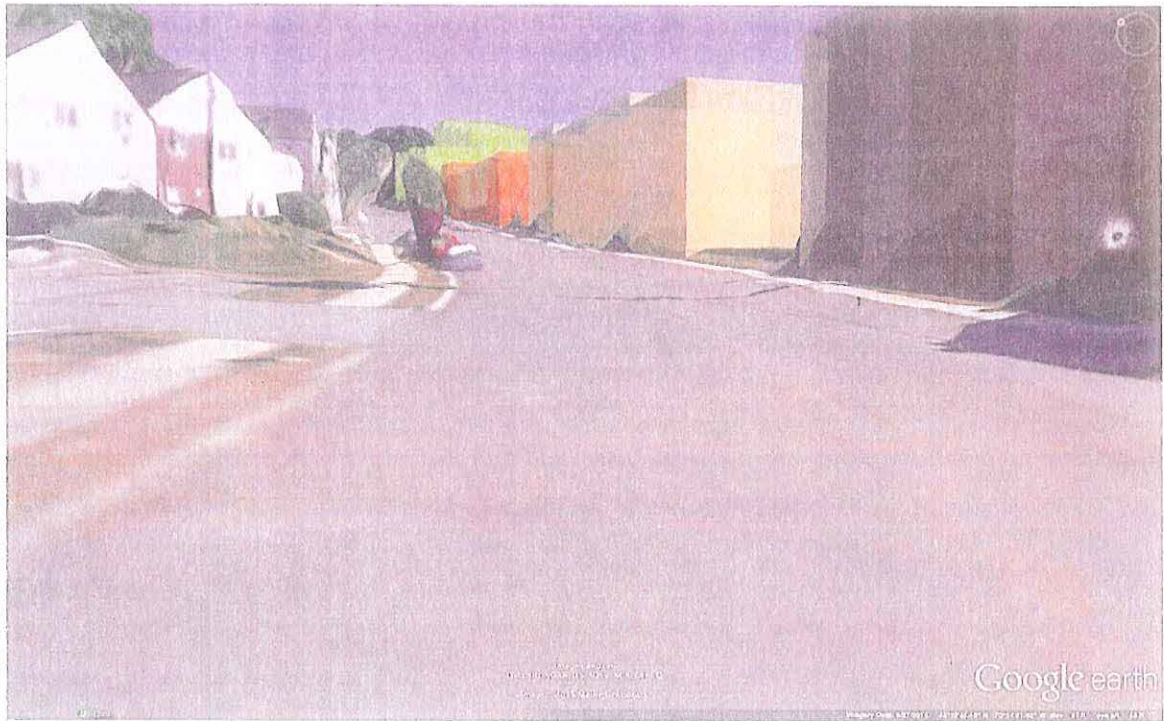
SOUL OF PORTLAND
SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
HEIGHTS ABOVE AVERAGE GRADE



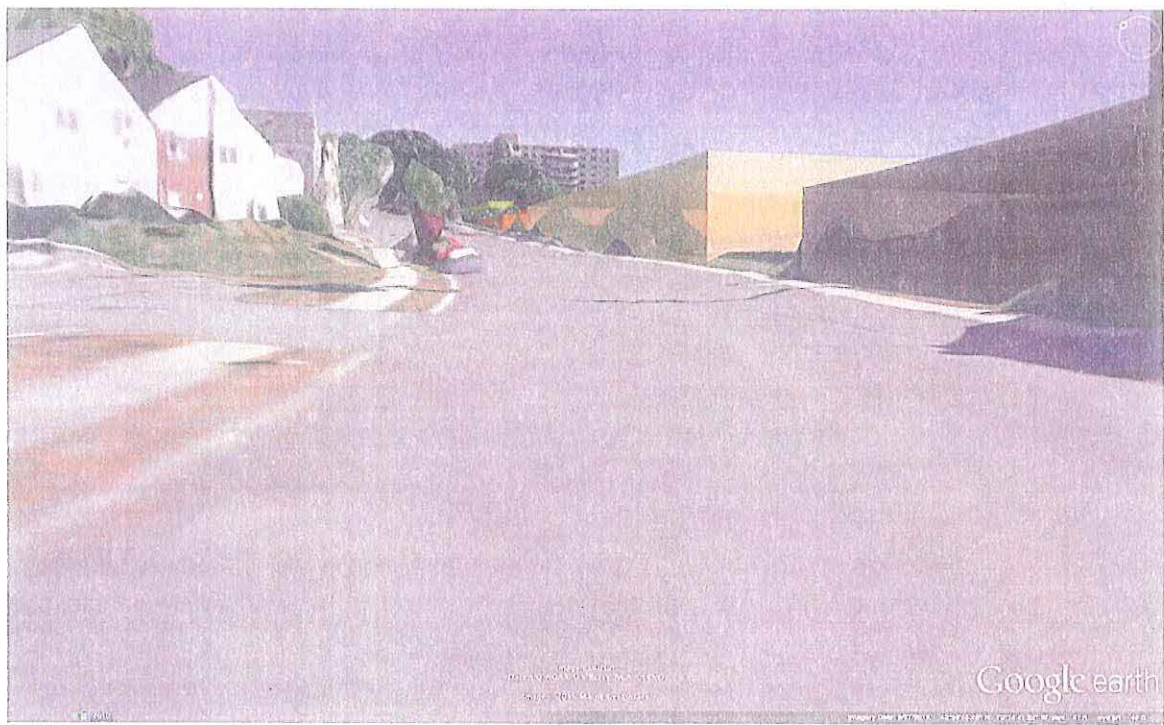
SOUL OF PORTLAND
SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
HEIGHTS ABOVE FLOOD PLAIN



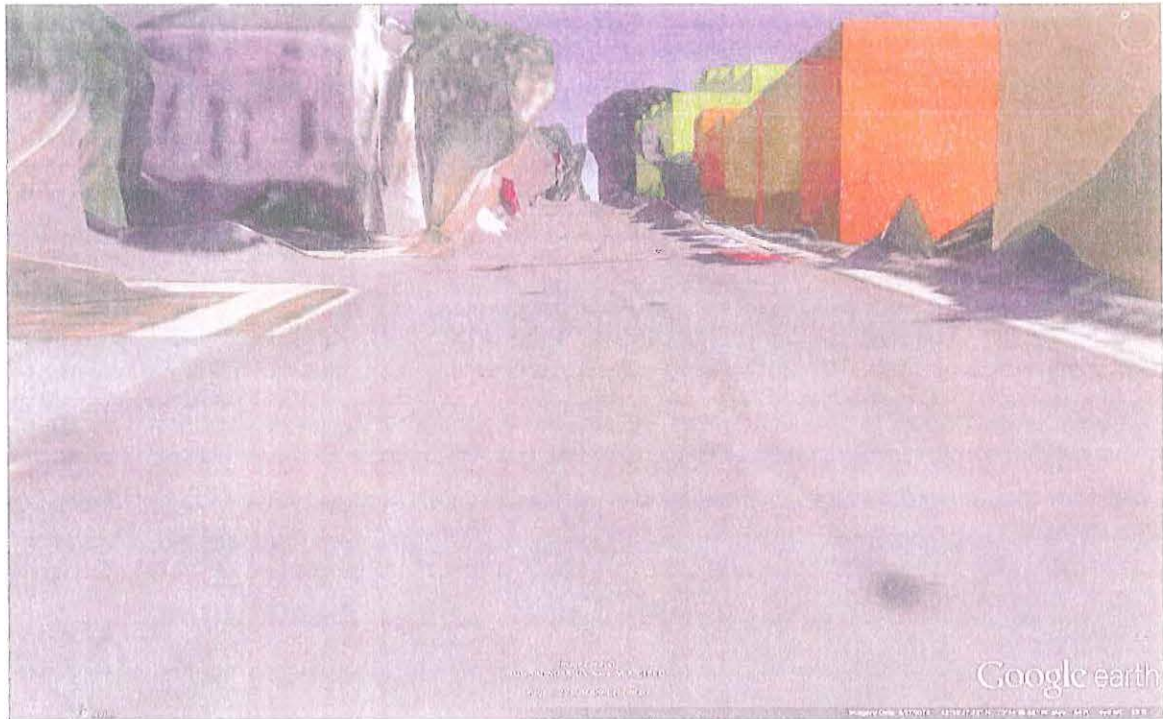
SOUL OF PORTLAND
SOULOFPORTLAND.ORG

58 FORE STREET
HEIGHTS ABOVE AVERAGE GRADE



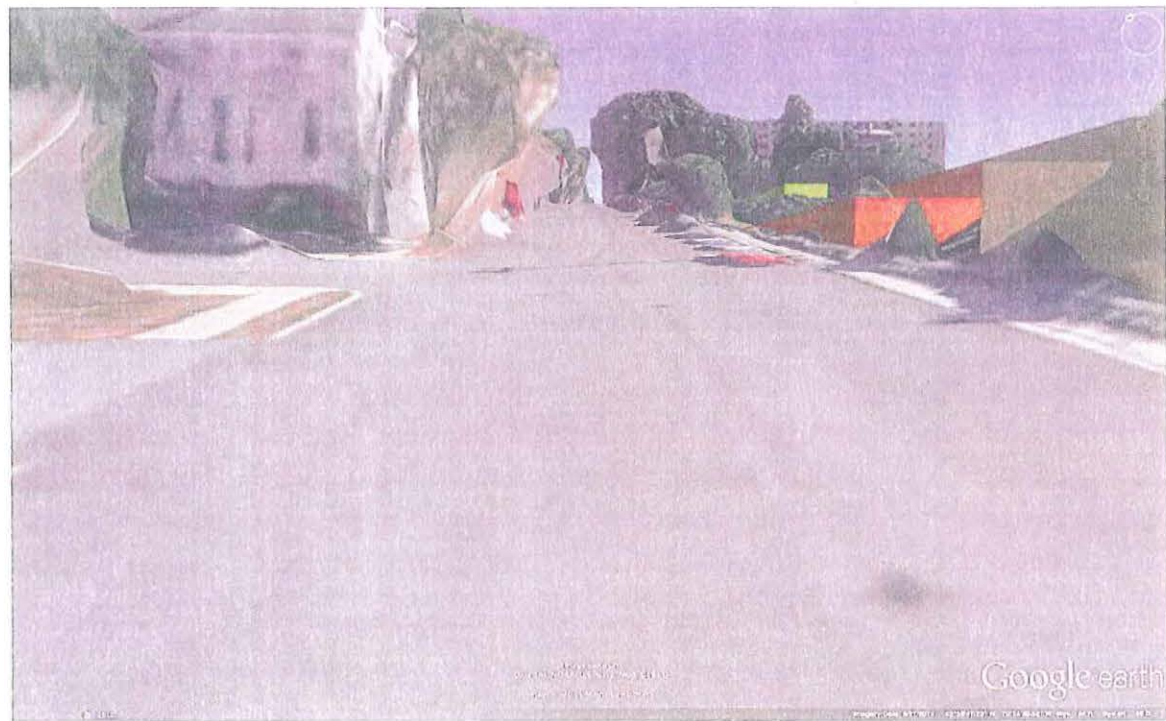
SOUL OF PORTLAND
SOULOFPORTLAND.ORG

58 FORE STREET
HEIGHTS ABOVE FLOOD PLAIN



SOUL OF PORTLAND
SOULOFPORTLAND.ORG

FORE STREET & WATERVILLE STREET
HEIGHTS ABOVE AVERAGE GRADE



SOUL OF PORTLAND
SOULOFPORTLAND.ORG

FORE STREET & WATERVILLE STREET
HEIGHTS ABOVE FLOOD PLAIN

February 6, 2015

Chair O'Brien and Members of the Planning Board
% Christine Grimando
Planning Department
City of Portland
389 Congress Street
Portland, Maine 04101

Dear Chair O'Brien and Members of the Planning Board,

My name is Peter Macomber and I live on St Lawrence Street. I'd like to call the Board's attention to a study completed in 1983 by Terrien Architects and Mitchell-Dewan Associates titled "Portland Waterfront: Public Access Design Project". This study is referenced in Volume 2 of the Comprehensive Plan (page N-16) and is thereby incorporated into the Comprehensive Plan.

Among other things, the study identifies significant viewpoints and panoramas in the City. The panoramas from Fore Street above and overlooking the Portland Company complex and into the working harbor are labelled as **major panoramas** (Exhibits A-1 and A-2). The larger the arrow on the map, the more significant the panorama. These major panoramas are classified in the study as having an 'A' view, showing not only background views of the harbor and beyond, but also foreground waterfront activities as well.

The study acknowledges that progress is inevitable: "*conditions and circumstances of private interest and concern will continue to change, as will the scope and application of public policy*". But it also cautions that "*the City must nurture its connection to the sea to bring full advantage to the many public and private users, present and future, that take their livelihood and enjoyment from the waterfront.*"

I mention this study not only because it's part of the City's Comprehensive Plan and helps inform policy decisions, but also because it speaks to us, from 37 years ago, about just how valuable the street-level views of the water have been and continue to be. And it calls upon the City to preserve these views as much as possible in the face of change.

When I walk along Fore Street between Atlantic and Waterville streets, I also take "*enjoyment from the waterfront.*" I see daily the panoramas that are highlighted in that study. I find the harbor vista to be as compelling and significant as the authors of that study did 37 years ago. And I think the majority of Munjoy Hill residents and City residents would strongly agree with that. As such, I am very focussed on the building height issues related to the Portland Company development especially if any buildings protrude above Fore Street and degrade the street-level panorama. How building height maximums are calculated will determine whether these panoramas will survive.

But how the height maximums are determined is, at best, bewildering. I find the height calculations as brought forward at Planning Board workshops with regard to the site topology to be vague, confusing and contradictory. And it's not just me. It appears that differing

interpretations of this issue extend to the city staff as well: in a memo to the Board dated October 8, 2014, staff referenced the Eastern Waterfront Building Height Study and wrote *"Given the topography of the site, a measurement from average adjoining grade could result in substantially higher building forms than were predicated for this area, as we read the plan."* But one month later this policy position is turned on its head. In a memo dated November 12, 2014, staff wrote *"Planning staff does not believe that the floodplain measurement would produce the intended development patterns outlined in the Eastern Waterfront Building Height Study."* This is a breathtaking reversal of position.

It seems to boil down to this: should you measure building heights in this particular site from the floodplain or from average grade? Average grade calculations seem to be used fairly consistently in Portland, although I've found only one reference to average grade in the the Land Use Code: *"Pre-development grade is defined as average grade, existing on October 1, 2000, at the corners of the foundation of the proposed structure."* It seems logical, though, and seems like it works quite well, even for a relatively steep site that has a consistent slope.

But does this methodology still work when 5% of a site is at one elevation and 80% at a much lower elevation with an extremely steep slope comprising about 15% between? Take a close look at the applicant's submittal "height measurement package" of November 7, 2014, page 9, Sections 7-9 (Exhibit B) to see how steeply the slope drops. These sections are between Waterville and St Lawrence streets. Is "average grade" still an appropriate methodology for determining building heights in such extreme topological conditions?

Maybe the best way to see how surprising an outcome can result from such extreme conditions is to look at it from the opposite direction.

Let's take "Section 8" of the applicant's submittal and flip the elevations (Exhibit C). Let's suppose that the site conditions were reversed and 80% of the site is now at an elevation of 61 feet and 5% is now at 14 feet. And let's say that an imaginary developer wanted to have a zone-permitted 45 foot building over that entire block of land.

The "average grade" of this imaginary site is exactly the same as the actual one - 38 feet - that the applicant has calculated. But even though the elevation of 95% of the imaginary site supports a 45' building, the "average grade" formula would prohibit it. Only a 22 foot building would be permitted, or two full stories less than the desired 45 feet. Hmmm. I have a feeling that our imaginary developer would strongly advocate alternative measurement methods for determining building height maximums.

You may find this scenario a little silly and ludicrous, but then the converse must also be silly and ludicrous. And in truth, if 95% of a building envelope supports a given building height, it really should be permitted. Conversely, if 95% of a building envelope does not support a given building height, it should not be permitted.

This is a valid observation with respect to the matter before you. **If the preponderance of the elevation of the Portland Company site does not support a given building height, you must look at another way of calculating that building height.**

I urge the Board to consider the elevation of the bulk of the Portland Company site as a basis for calculating heights. That would be the "floodplain" methodology that has been interpreted or advocated by, among others, the Soul of Portland group, by Planning Staff in the memo to the Board dated October 8, 2014, the more recent version of Illustration 33 of the Eastern Waterfront Building Height Study (Exhibit D, Note 2) and even by the City's own B-6 Building Height Overlay Map (Exhibit E). This approach would bring consistency and clarity to the applicant and to the citizens of Portland as well as helping preserve the treasured street-level panoramas that were celebrated 37 years ago.

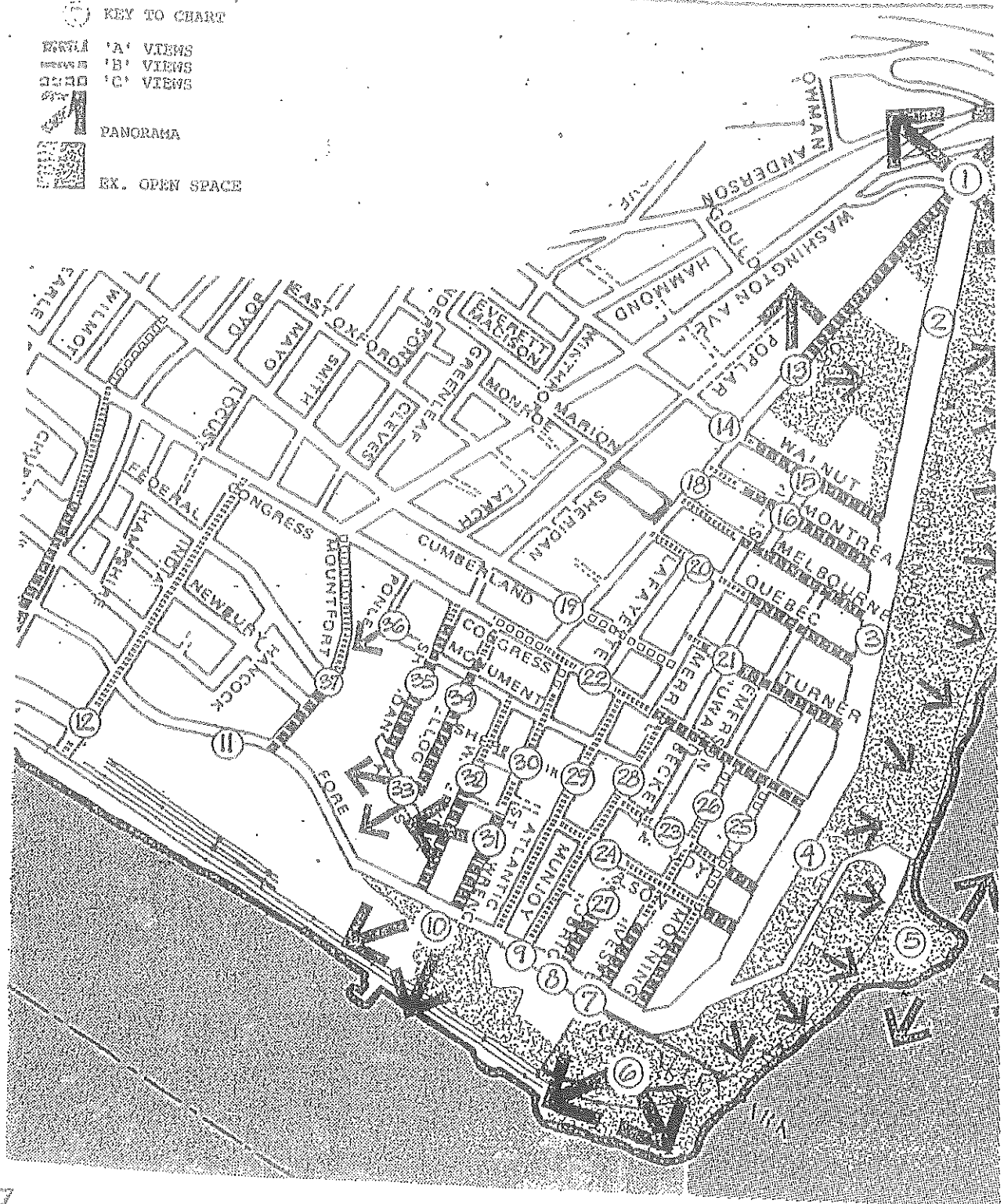
Sincerely,

A handwritten signature in dark ink, appearing to read "Peter Macomber", with a horizontal line extending to the right.

Peter Macomber

VISUAL CORRIDORS Eastern Prom

- KEY TO CHART
-  'A' VIEWS
 -  'B' VIEWS
 -  'C' VIEWS
 -  PANORAMA
 -  EX. OPEN SPACE



Within each of the four subsections the view corridors have been classified as follows, based upon field observations at street level:

■■■■■ 'A' VIEWS. Foreground or midground views of Portland's waterfront or the water's edge, plus background views of Casco Bay or South Portland.

■■■■■■■■ 'B' VIEWS. Midground or background views of Casco Bay or the Fore River and the opposite shore, with the Portland Waterfront obstructed by grade changes or buildings.

□□□□□ 'C' VIEWS. Water is not visible, but the observer has a sense of being near the water.

The map(s) of each section graphically show the extent of each type of view corridor. In addition the location of panorama viewpoints are noted: the larger the arrow the greater the significance of the panorama in terms of angle of view, position of observer, and degree of obstructions. A panorama is generally assumed to be a point or area offering the street level observer the opportunity to view water and waterfront activities in a cone of vision greater than 45°. The visual corridors map also indicates major open spaces that exist along the waterfront.

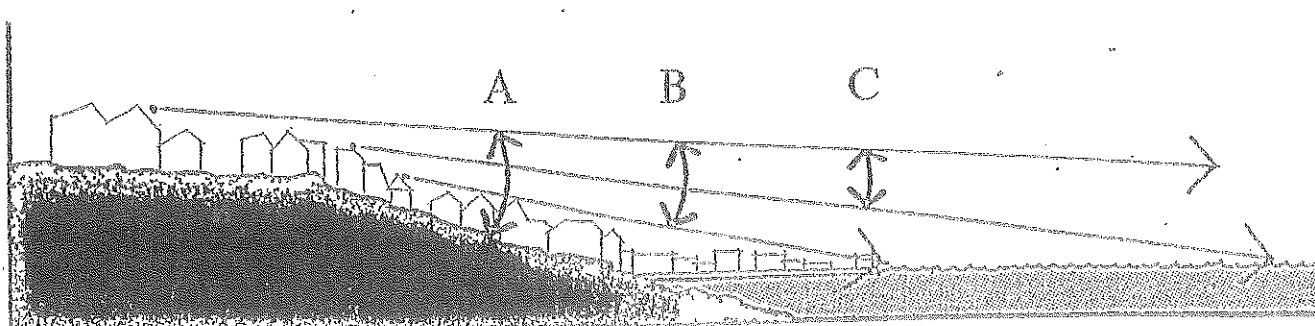
Opposite the visual corridors map is a chart describing characteristics of the visual corridors and viewpoints. In some instances the number on the chart refers to a single point, in others, a street - usually running perpendicular to the waterfront, and in others it represents an entire area. Location.

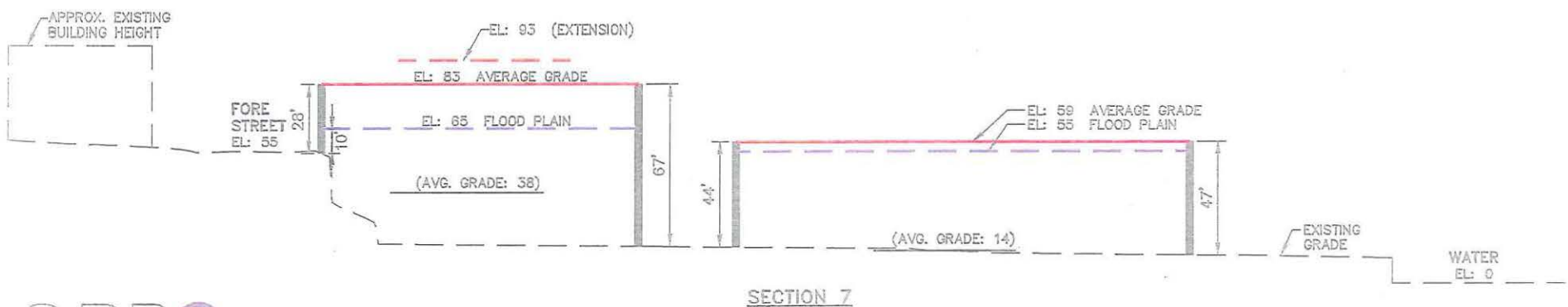
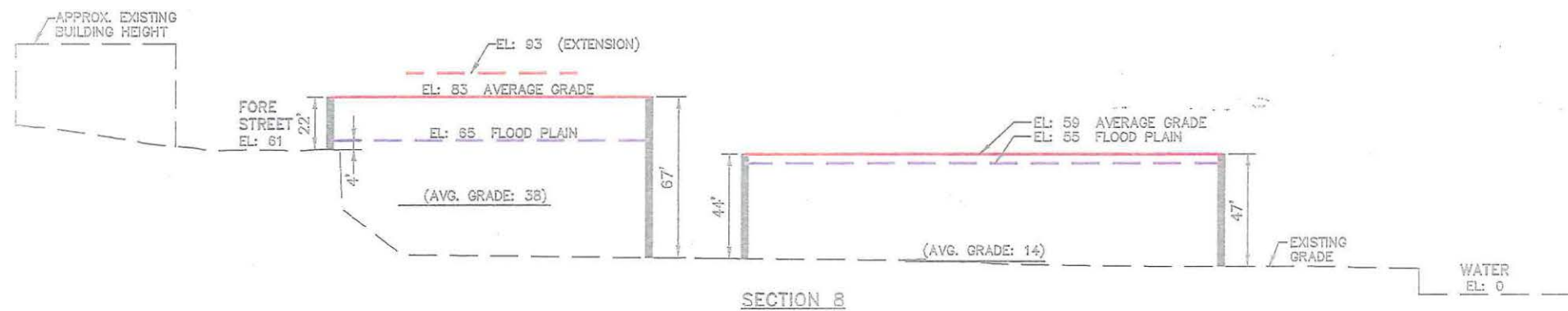
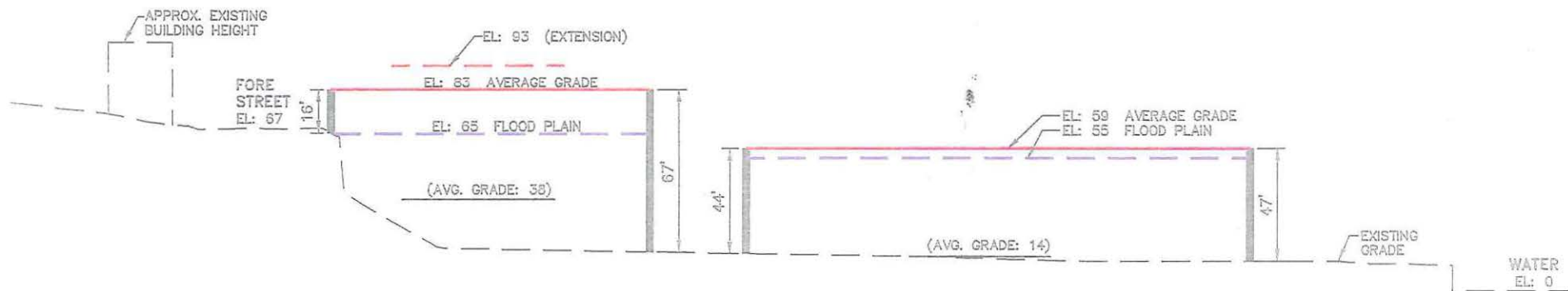
The Position column refers to the observer's position relative to the waterfront (WF): well above it, at the waterfront roofline, or at the water's edge.

Neighborhood land use and Condition observations are the result of site visits by consultant team members and are included for use as a benchmark for continuing assessments.

The View Types indicate whether the view at the designated position is a major panorama (solid block), minor panorama (cross-hatched block), a corridor terminus, or a minor interest point (occupying a relatively small percentage of the cone of vision at ground level).

Where 'A' VIEWS are found, the 'A' View Foreground (waterfront activity) is noted. Similarly, the 'B' View Background records waterfront activities or land uses on the opposite shore.





CPB2 LLC
 CLEAN WATER RAIN DEVELOPMENT PARTNER, MAINE

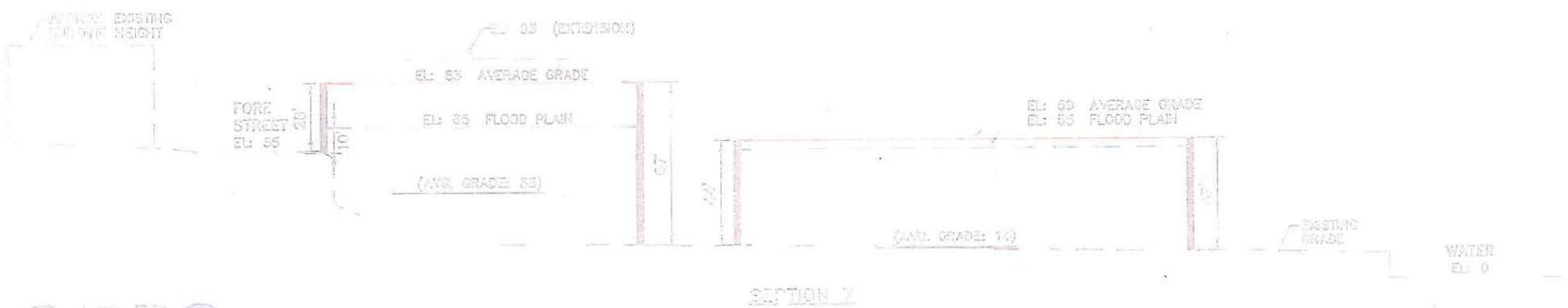
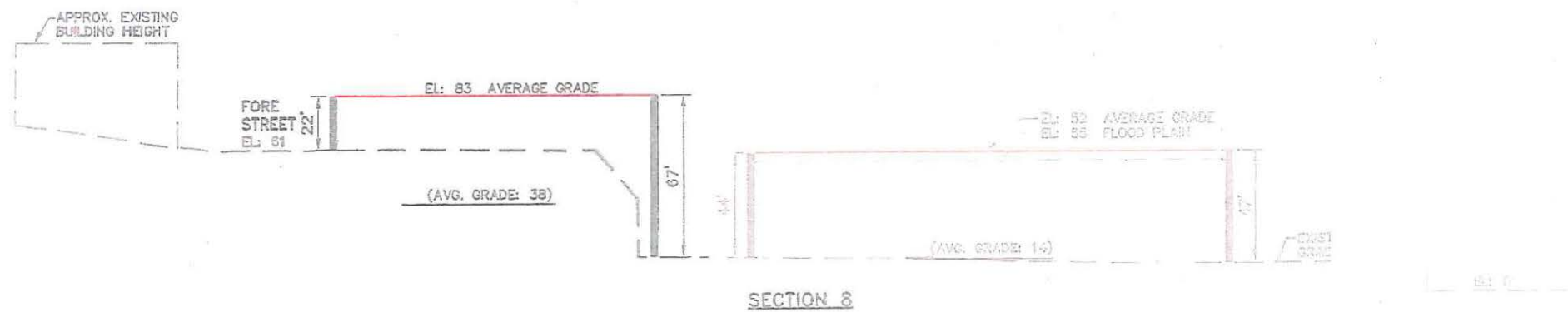
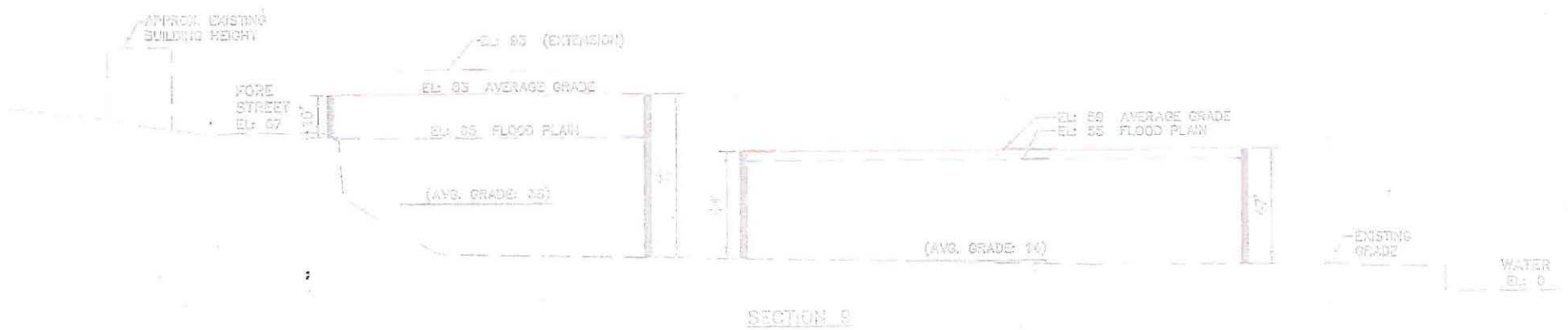


41 Fulham Drive, Portland, ME 04102
 800.455.4292 | www.woodardclark.com
 COMMITMENT & RESPONSIBILITY DRIVE RESULTS

LEGEND

- MEASURED FROM AVERAGE GRADE
- - - - - MEASURED FROM FLOOD PLAIN (EL. 10)
- - - - - EXISTING GRADE

NOTE: SECTIONS DO NOT REPRESENT ACTUAL BUILDING STRUCTURES.



CPB2

LEGEND

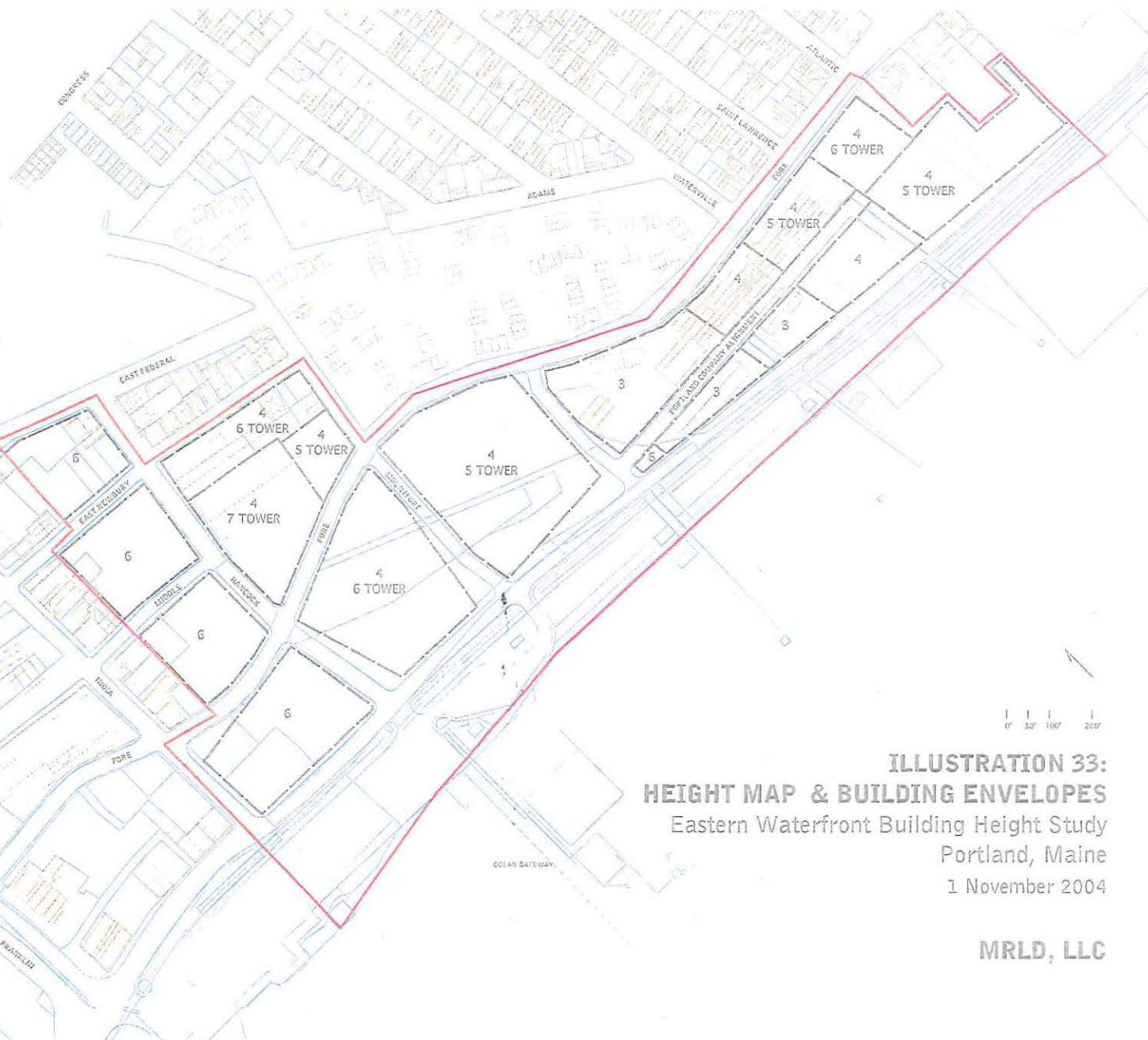
- MEASURED FROM AVERAGE GRADE
- - - - MEASURED FROM FLOOD PLAIN (EL. 10)
- EXISTING GRADE

NOTE: SECTIONS DO NOT REPRESENT ACTUAL BUILDING STRUCTURES.

-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

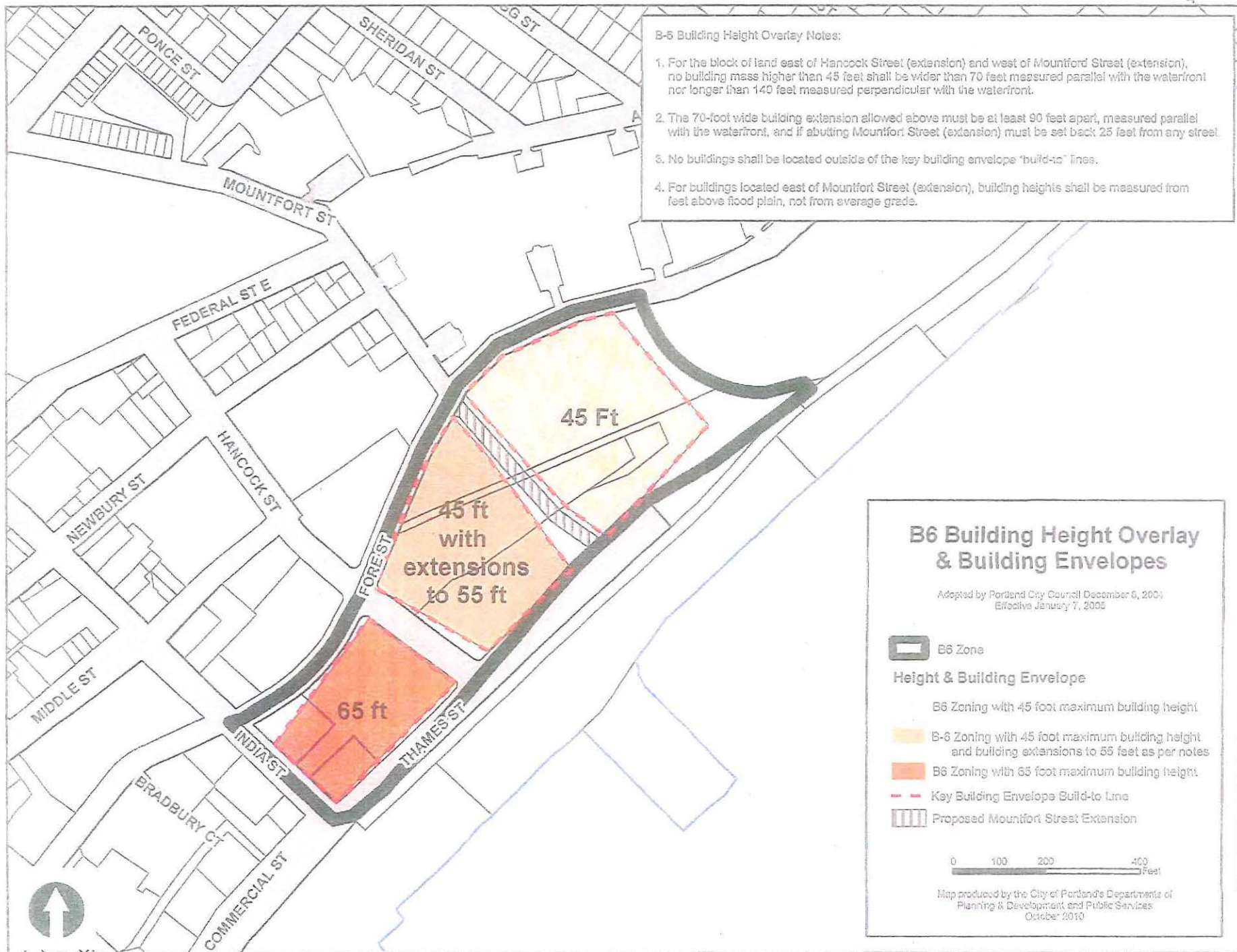
1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2' ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM. WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
3. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.
4. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.
5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.



0' 50' 100' 200'

ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

MRLD, LLC



Lannie Dobson - Re: Fwd: The Comprehensive Plan on public views of the harbor and building heights

From: Lannie Dobson
To: Christine Grimando
Subject: Re: Fwd: The Comprehensive Plan on public views of the harbor and building heights

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> Brian Burwell <burwell@maine.edu> 2/6/2015 9:50 AM >>>

Dear Chair O'Brien and Planning Board Members,

Re: Development of the Portland Company property

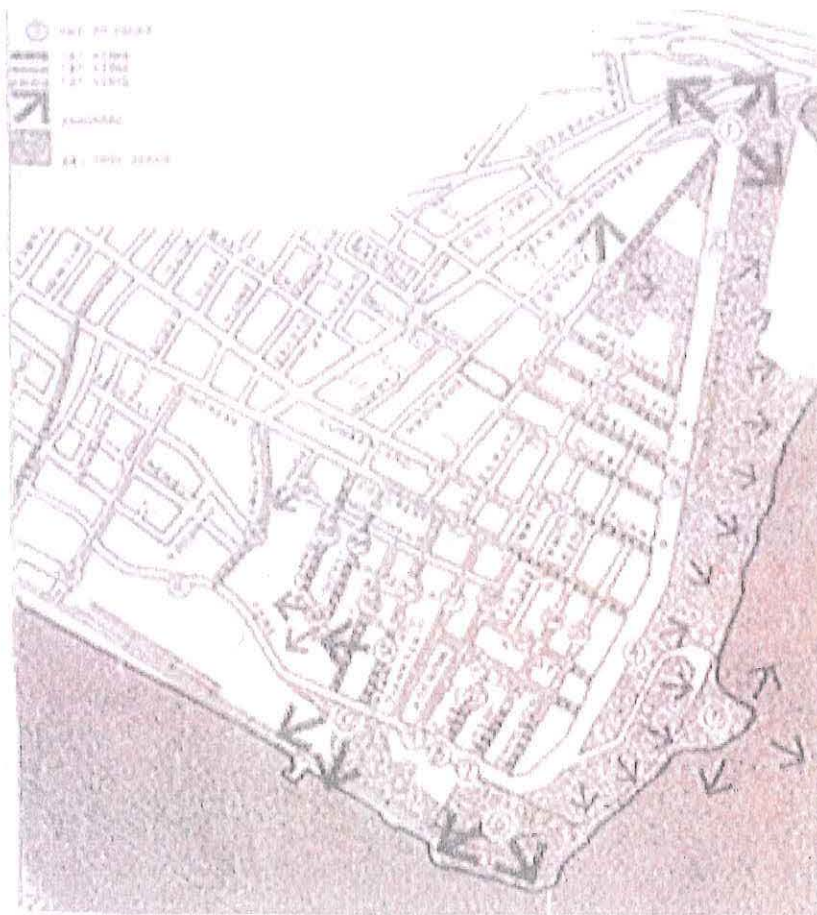
The City's Comprehensive Plan is a rigorous document incorporating professional expertise and resident inputs. And it is an asset belonging to all of its citizens.

Community forums held in 2001 were asked "What makes Portland distinctive?" Portland's natural setting was the number one response. (Comprehensive Plan, Vol 2, Natural Environment Inventory and Analysis, N-1). Recognizing the vital contributions of the ocean to its unique history and current character, the City has focused much planning effort on optimizing its relationship to the waterfront.

THE PUBLIC ACCESS DESIGN PROJECT

In 1983 the City engaged Terrien Architects and Mitchell-Dewan Assoc. to provide guidelines for "public access" to the waterfront for the entire peninsula. The Public Access Design Project identified "major viewing corridors and viewing points, (and) suggested measures to preserve and enhance these resources.." On Munjoy Hill, as well as other high points in the City, public access is defined in terms of water and/or harbor views obtained at street level. The Public Access Design Project classifies a major panorama "to be a point or area offering the street level observer the opportunity to view water and waterfront activities in a cone of vision greater than 45 degrees."

---" Panorama viewpoints are noted with an arrow, the larger the arrow, the greater the significance of the panorama in terms of angle of view, position of observer, and degree of obstructions. "



Comprehensive Plan, Volume 2, N-16.

As seen above, in addition to the Ft. Allen Park area, the only "major panoramic views" of the ocean and/or harbor are along Fore Street in the Waterville and Saint Lawrence Street blocks, and along Waterville Street; with lesser panoramas along Adams Street and at the corner of Ponce and Monument Streets. The streets sloping down to Adams and Fore are replete with "view corridors". This study assessed these panoramic and corridor views as "increasingly important for the well being of the entire City...", and having a goal "to protect and enhance them." (The entire study relating to the East End is available at dropbox: <https://www.dropbox.com/s/c9bx3a1usc053k0/Portland%20Waterfront%20Public%20Access%20Design%20Project.pdf?dl=0>)

THE EASTERN WATERFRONT BUILDING HEIGHT STUDY

The Building Height Study was adopted into the Comprehensive Plan in December of 2004 after four years of work. It anticipated development of the Portland Company property emphasizing how the unusual topography of the site, with Fore Street rising to 80 feet over sea level, allows for the preservation of harbor views for pedestrians on Fore Street while enabling four to six story buildings nestled into the hillside. Guiding principles for the Building Height Study include:

- * "Protect, enhance and create views from various vantage points surrounding the study area and within the study area"; and
- * "Place taller and larger buildings in the "shadow" of existing grade changes"

The report was finalized after a lively meeting at Adams School attended by over 100 neighborhood residents who in large majority criticized the draft building heights as too aggressive. The study author notes that the "final illustrations provided herein, including section drawingsreflect public input generated at the neighborhood meeting." (Appendix D-5) Section E (attached below) shows existing and proposed building heights relative to Fore Street for the Portland Company property. Public views along Fore Street are minimally affected, while five and six story buildings (including the towers) are largely within the shadow of existing grade changes.

THESE PANORAMIC HARBOR VIEWS CONTRIBUTE TO THE PEDESTRIAN EXPERIENCE OF LARGE NUMBERS OF THE PUBLIC
Panoramic views of the harbor enhance the experience of living on the Hill and help foster a balance in the Hill's natural and increasingly dense built environment.

Neighborhood residents, whose numbers are increasing from new infill developments and building enlargements, walk the area and to and from downtown.

Hundreds of downtown workers on lunch breaks, cruise line passengers and other visitors stroll the Fore Street sidewalks during good weather in order to experience the harbor views unique to Portland.

According to the Maine Department of Transportation 4,573 vehicles traveled on upper Fore Street on October 21, 2013.

Austin, Seattle and other cities protect unique natural views and respect typography to maintain and enhance distinctive character

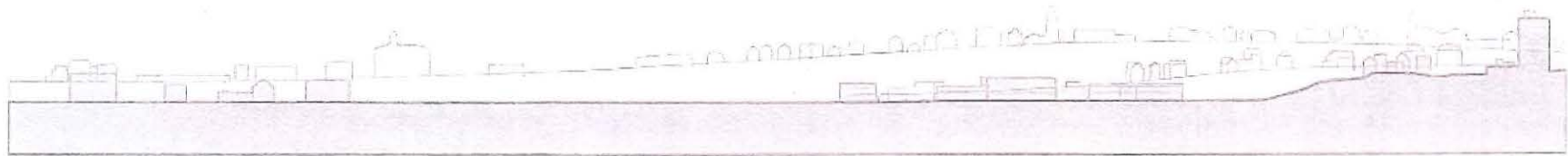
B-6 REQUIREMENTS FOR A BUILT STREETScape ON THE SOUTH SIDE OF FORE STREET ARE ANTI-THETICAL TO "WHAT MAKES PORTLAND DISTINCTIVE".

B-6 is designed to apply to a commercial setting, with no setbacks in order to create a built streetscape. Application of B-6 standards to this setting would disrespect the unique, wonderful panoramas currently enjoyed by Portland's residents and visitors. It would be a major, non-reversible mistake.

Question: If we ignore the wisdom and clear intent of these Comprehensive Plan documents, why would the City and its residents bother with the strenuous efforts to develop such plans?

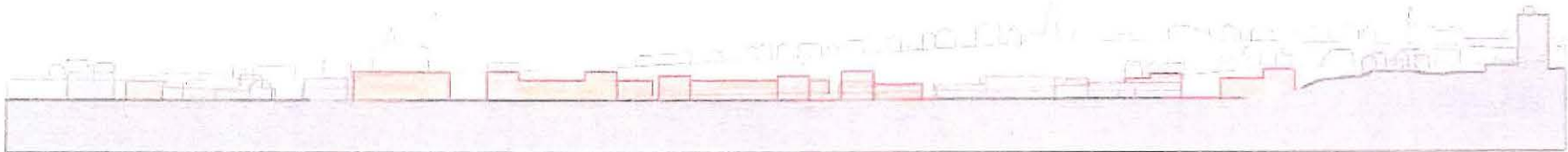
Sincerely,

Brian Burwell
31 Fore Street



SECTION E EXISTING - EAST / WEST (with Congress Street and Fore Street Elevations)

PROPOSED E2



SECTION E PROPOSED - EAST / WEST (with Congress Street and Fore Street Elevations)

EASTERN WATERFRONT HEIGHT STUDY

CHESTER & VESTAL

A PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

107 Congress Street, Portland, Maine 04101

Telephone (207) 772-7426 Fax (207) 761-5822

EDWIN P. CHESTER
BARBARA A. VESTAL
MICHAEL P. DIXON

chester@chesterandvestal.com
vestal@chesterandvestal.com
dixon@chesterandvestal.com

February 5, 2015

Chair O'Brien and Members of the Planning Board
c/o Christine Grimando
Planning Department
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Portland Company Complex

Dear Chair O'Brien and Members of the Planning Board,

The Portland Company Complex, a very visible 10 acre gateway site, is critical to the identity of Portland. As the applicant needs a zone change of some variety in order to proceed with uses that are not currently allowed, the Board has the opportunity to craft zoning that is fully reflective of the best use of that site. It is important for the City to get its zoning right. I firmly believe that the B-6 zone is not the answer for the reasons outlined below.

1. THE B-6 ZONE WAS NOT DRAFTED TO APPLY TO THE PORTLAND COMPANY SITE.

During the course of the Eastern Waterfront master planning process, an "Ultimate Build-out Scheme" scenario was developed by the Planning Office in the spring of 2002. It included City-owned land, the parcel referred to as the Farley-Marino property and some land belonging to Shipyard Brewing. It did not include the Portland Company Complex because its owner was not interested in redeveloping his property at that time. That illustration is attached as Exhibit A.

The Eastern Waterfront Master Plan generally recommended mixed use development for upland areas of the Eastern Waterfront, including the Portland Company Complex. But it did not recommend that the Portland Company Complex be rezoned from WSUZ to B-6. Mixed use development on the Portland Company Complex can be accommodated within the existing WSUZ regulation.

Between the spring of 2002 and its adoption in December 2004, the Planning Board developed and forwarded to the City Council the proposed B-6 Eastern Waterfront Mixed Use Zone. It applied only to the properties east of India Street, north of Commercial Street and its extension, west of the Portland Company complex, and south of Fore Street. It did not include the Portland

Company Complex (See Exhibit B). This area was denoted the "Central Redevelopment District." In some documents the Shipyard Property, which was eventually developed as the Gateway Parking Garage and the Residence Inn, was included in the discussion as well. However, the B-6 zoning which was enacted in December 2004 applies only to the "Central Redevelopment Area," without the Shipyard properties.

2. THE B-6 ZONE MANDATES A VERY SPECIFIC FORM OF DEVELOPMENT WHICH IS A POOR FIT FOR THE PORTLAND COMPANY SITE

The B-6 zone is a variation of a form-based code. The attached Ultimate Build-out Scheme (Exhibit A) set the stage for a form of urban development that is woven throughout the zoning language. It is very specific to the three blocks that were rezoned to B-6.

The Ultimate Build-out is premised upon a re-connected grid of public streets and public sidewalks (Hancock St., Mountfort St. and an unnamed/unbuilt street adjacent to 58 Fore St.) The parking is directed to the interior of each block (light blue), with structures accommodating mixed uses wrapped around the parking (dark blue). There are virtually no provisions for the consideration of existing buildings, because the area of the Ultimate Build-out is composed of vacant land, surface parking lots, and metal industrial structures which will be razed in the event of development. The B-6 ordinance incorporates unique dimensional requirements to produce this Ultimate Build-out -- e.g., "built to lines," 10 foot maximum setbacks from "build to lines," minimum street wall lengths, and minimum heights -- and requires for ground floor retail space to create new, very dense urban space.

Poor Fit: Already Existing Structures: In contrast to the 3 blocks of B-6, the Portland Company Complex is already significantly occupied by historic buildings. The majority of these buildings are of the character which should be adaptively reused, as stated in the Master Plan and the Design Guidelines. Contrary to assuming a virtually blank slate, as the B-6 does, the Design Guidelines state:

Historically and architecturally significant structures and sites should be inventoried and protected from demolition and carefully rehabilitated in a way that is consistent with their original architectural intent. The challenge and opportunity is to adaptively reuse significant structures while retaining their historic character (Design Guidelines, p.7).

The form-based code approach of the B-6 zone is inconsistent with the goals for the important buildings already occupying a portion of this site.

Poor Fit: No Street Grid: There is no street grid proposed for 58 Fore which will produce the basic building blocks of the B-6 zone -- blocks surrounded on four sides by public streets. The only streets proposed are the existing Fore Street (which is well above the grade of most of the

existing buildings and the "Portland Company Alignment" where no buildings will be allowed. Presumably the no build area will serve as a street, but it is not clear whether it will be public. The B-6 zone relies upon public streets and public sidewalks on both sides of the streets to make the land publicly accessible, thus securing a benefit for the general public. There is no such similar street grid proposed on the Portland Company site.

The rest of the circulation pattern on the Portland Company site has yet to be determined, and may consist of private lanes. This is the opposite of the B-6 zone which relies upon a grid of public streets and sidewalks to assure public access.

Poor Fit: Build-to Lines Nonsensical: In the existing B-6 zone, the dashed lines are "key building envelopes." The B-6 zone states:

New structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes [sic] shown on the *Eastern Waterfront Building Height Overlay Map*. (14-272(c)(3))

These build-to lines are tied to the building envelopes, not to streets. The Overlay Map which the applicant proposed to apply to 58 Fore Street has 9 building envelopes. There are eight "built to" lines that do not abut streets or the edge of the parcel. It is unclear what the zoning intends to accomplish by requiring build-to lines in the eight locations where build-to lines are in the middle of a parcel, not bounded by a street. Similarly the impact of overlaying this grid of build-to lines on top of historic structures is unclear.

Poor Fit: High-Density Urban Pattern of Development: The type of development that would be produced by the B-6 standards is similar to the Ocean Gateway Garage and the Residence Inn. Even beyond the question of whether the provisions are effective to generate ground floor active uses (given that the "retail space" in the Gateway Garage has been vacant since it was constructed), it is important to ask whether this is, in fact, the type of development desired at 58 Fore St. It may make more sense to first settle the issue of whether the 58 Fore Street site, or some portion of it, is going to be designated a local historic district before casting the form of new development in stone as do the very detailed standards in the B-6 zone.

Poor Fit: Brew Pubs, Restaurants, etc. Incompatible with Immediately Adjacent Residential Neighborhood: The B-6 zone was designed to abut other commercial uses. Extending that zone to 58 Fore Street gives no consideration to the established residential neighborhood which, for over 100 years, has overlooked, but not interacted with, the 58 Fore Street property except at its single entrance. The substantial change in grade has acted as a buffer between the industrial use and the residences. The proposed extension of the B-6 to 58 Fore St. completely disregards this traditional buffer.

Except for the Portland Company site itself, both sides of Fore Street in the vicinity of 58 Fore St. are occupied by residential uses, mostly in small scale 1-3 family structures, with the exception of the Portland House. There are no existing non-residential uses except for one small insurance office, which may be a home occupation. The Munjoy Hill neighborhood moving north from Fore Street is of a similar, entirely residential, character.

In contrast, if the entire 58 Fore St. site is rezoned to B-6 as proposed, it would allow a developer to build, as of right, on the south side of Fore Street hotels, retail space, offices, restaurants, brew pubs and any number of other uses facing the residential neighborhood. It would require at least 75% of the street wall of whatever use to be built out to within 10 feet of Fore Street. And, in a provision that is inconsistent with how the maximum height limits should be applied to this site, it would require that uses facing Fore Street not have less than three (3) floors of habitable space above the average adjacent grade. This scale and range of permitted uses is completely out of character and incompatible with the existing, long-standing residential uses.

While these non-residential uses might belong in the area where the existing B-6 is located and on the filled land portion of 58 Fore Street, they are completely inappropriate on the upper portion of Fore Street. A rezoning to allow the incursion of this type of commercial use into a residential area that has no such similar uses would be unprecedented.

3. THE EXISTING B-6 ZONE REFLECTS CAREFUL PLANNING OF PUBLIC VISTAS WHICH HAS NOT YET BEEN UNDERTAKEN IN RELATION TO THE PORTLAND COMPANY SITE.

The B-6 Building Height Overlay & Building Envelopes evidences a level of planning to preserve public views and vistas from public streets that has not yet taken place on the 58 Fore Street site. In the overlay, the building envelopes are pulled back from street lines and the street space is splayed out to enhance public views. If serious consideration is being given to a B-6 rezoning for 58 Fore Street, that same level of detailed vista analysis needs to be done for that site. The Height Study just assumes that the existing buildings will remain on the site, and that the vistas over the existing buildings will remain. The study did not look at the impacts of new construction on the vistas.

4. THE CIRCULATION PATTERN WITHIN THE PORTLAND COMPANY COMPLEX, PARTICULARLY FOR WATER-DEPENDENT USES, NEEDS TO BE CONSIDERED PRIOR TO ADOPTION OF THE HEIGHT OVERLAY.

The B-6 dimensional requirements appear to allow limited space for driveways between buildings which are arranged around the build-to lines. But it is unclear whether these will be private or public within the 58 Fore Street site. It is also unclear whether they will be sufficient to provide the circulation patterns to allow continued existence of marine uses under the WSUZ.

The preface to the Eastern Waterfront Master Plan states: "the water's edge is the most precious resource we have" (p. 2). Similarly, the Design Guidelines note that the challenge is to preserve the value and marine utility of the water's edge while stimulating appropriate upland development for the benefit of the general population (p. 14). The Community Development Committee of the City Council, prior to recommending approval, added a section to the Master Plan noting the challenges of implementing the Master Plan. It reemphasized the importance of the working waterfront and full utilization of deep-water berthing resources, stating:

The challenge will be to maximize the benefits of mixed-use non-marine development, while retaining the function and future flexibility of the Eastern Waterfront as a pivotal intermodal hub in Maine's transportation system. Transportation utility of the Eastern Waterfront will require constant and vigilant protection (Master Plan, p. 21).

The circulation pattern within the 58 Fore Street site is critical to maintaining the functionality of the water's edge. The current circulation pattern does not allow for any obvious vehicular access to the water's edge. The building envelopes do not suggest any circulation pattern. As protection of the utility of the water's edge has been identified as a primary goal, it should be addressed as part of any rezoning.

5. THE "PORTLAND COMPANY ALIGNMENT" NEEDS TO BE CONSISTENT WITH THE ORIGINAL HEIGHT STUDY RECOMMENDATION

Illustration 33 of the Height Study (Exhibit C) shows a "Portland Company Alignment" (a no-build area) that was carefully located to preserve views from the B-6 area into the Portland Company Complex and line up to avoid the existing historic buildings. Building envelopes in the B-6 zone were pulled back to preserve the view into the heart of the historic buildings. However, in the applicant's proposed overlay map (Exhibit D), the no-build area has been moved so that views from the B-6 zone are not preserved. It also cuts across existing buildings.

It is unclear whether shifting this alignment is intentional or an oversight. If it is intentional, the applicant should make it clear that it is asking for an amendment to the height overlay and explain the basis for the change in the alignment. However, as it was carefully located as part of the Height Study design process, it would seem that there is good reason for keeping the original alignment.

6. THE APPLICANT'S POSITION THAT HEIGHTS AT 58 FORE SHOULD BE MEASURED FROM AVERAGE GRADE IS INCORRECT, AND WOULD RESULT IN A DEVELOPMENT WHICH IS OUT OF SCALE WITH THE RESIDENTIAL NEIGHBORHOOD

One of the primary goals of the Eastern Waterfront Height Study was to balance the needs of the study area against the surrounding "impact areas", including the Munjoy Hill residential

neighborhood. As part of that balancing, it identified three "shadow areas" where development could be located that would not negatively impact the adjacent areas. The upper Fore Street shadow area was identified to justify a height of 65 feet, due to the large change in grade.

Obviously, the large change in grade would not be cited as a reason to allow that extra height if it was anticipated that the extra height would be located at the top of the slope, as is contended should be allowed by the applicant. As is clear in the Building Height Study, it was intended that the resulting extra-tall structure would be located on the filled land portion of the site.

The November 2004 graphic, prepared by the height consultant after the adoption of the Building Height Study as part of the Master Plan (Exhibit E), includes as General Note 2:

The height of buildings and tower masses east of Mountfort Street or its extension shall be measured from 2' above the flood plain elevation for the site based on the National Geodetic Vertical Datum. Where allowed, building mass above 4 floors shall not be wider than 70 feet parallel with the waterfront nor longer than 140 feet perpendicular with the waterfront. [Emphasis added]

This graphic applies to the entire study area, including the Portland Company site.

This method of calculating height was carried over one month later into the December 2004 Council-adopted B-6 Building Height Overlay & Building Envelopes, which states in Note 4:

For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade (Exhibit B). [Emphasis added]

Thus, not only does it make sense for heights for the entire area east of Mountfort Street extension to be measured from flood plain based upon the substance of the height study, but it is also consistent with what the City actually enacted in the B-6 zone.

CONCLUSION: EXTENSIVE MODIFICATIONS TO B-6 OR OTHER ALTERNATIVES

The B-6 zone is not an appropriate zone to import to the heart of residential Munjoy Hill unless it is very significantly modified to keep the impact and uses down on the filled land. Moreover, the urban form the B-6 tries to create is incompatible with the existing historic structures and protection of the water's edge for the working waterfront.

If the City is still considering importing the B-6 zone to 58 Fore Street, the zoning text for the B-6 would require multiple modifications, including, but not limited to:

- (1) there should be a very substantial mandatory minimum setback from Fore Street (greater than 150 feet) for all new construction which would override the otherwise required build-to line and keep commercial uses from being developed on the southern side of Fore Street;
- (2) the building height overlay should specify, as it does for the block of B-6 adjacent to 58 Fore Street, that "the heights shall be measured from feet above flood plain, not from average grade";
- (3) the minimum height requirement of 3 stories should be deleted for this portion of the B-6 zone as being inconsistent with the historic buildings; and
- (4) the circulation pattern established as part of the height overlay and the dimensional requirements in the B-6 text, particularly the built-to lines, should be re-examined and modified as necessary to respond to the Master Plan goals of adaptive reuse of historic structures, protection of the utility of the water's edge for water-dependent uses, and preservation of public visual access to the water.

Much additional study is required to determine what pattern of development is appropriate for this site and how successfully the form-based code developed for the three blocks in the "Ultimate Build-Out Scenario" translates to an entirely different location.

In lieu of essentially rewriting the B-6 zone text to make numerous exceptions for 58 Fore Street, it would be better to leave the B-6 text alone and not expand its scope. That would leave the applicant with two options: applying for some form of contract zone under the existing WSUZ, or proposing text amendments to the WSUZ.

The WSUZ as written anticipates that any new mixed use development over 5,000 square feet will be reviewed as a contract zone, using the standards contained in the existing WSUZ text. In the past, the City has required very detailed plans to accompany any conditional rezoning. However, there is nothing in the enabling legislation or in the City's own ordinance pertaining to contract zones that requires that level of detail.

The applicant has made it clear that it does not want to invest in developing plans to the level of detail previously required by the City in order to pursue a contract zone. If the City finds that reasoning compelling, the applicant and the City should explore whether there is a more conceptual way to approve a conditional rezoning that clarifies, in general terms, what each will get in exchange for agreeing to a conditional rezoning, without requiring a site plan level of detail. Perhaps conditions more in the nature of performance standards would provide a way for the City to give the applicant the certainty it says it needs to proceed while still enacting a conditional rezoning that will run with the land to any new owner.

Chair O'Brien & Board
February 5, 2015
Page Eight

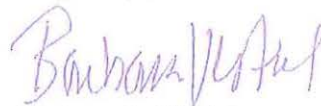
In the alternative, now that the Farley-Marino site has been rezoned to B-6, 58 Fore Street is the only property remaining in the WSUZ. That fact offers the opportunity for carefully crafted amendments to the text of the WSUZ which are designed to allow a thoughtful version of the proposed development. It would obviate the need to comply with the precedent set by the City for conditional rezonings.

The applicant would have to reveal enough of its concepts and plans to allow discussion of text amendments. The amendments would likely identify sub-areas of the site for different treatment, such as permitting a certain range of uses only on the filled land. Similarly it could allow for new construction in locations and meeting dimensional requirements that are not incompatible with the existing historic structures. It could be in the nature of form based code, but designed for this particular location.

There is no reason to make tortured amendments to the B-6 or have portions of the B-6 apply only to the 58 Fore Street site when, due to the geographic scope of the existing WSUZ, the City can amend that zoning text directly to allow the development it wants to permit.

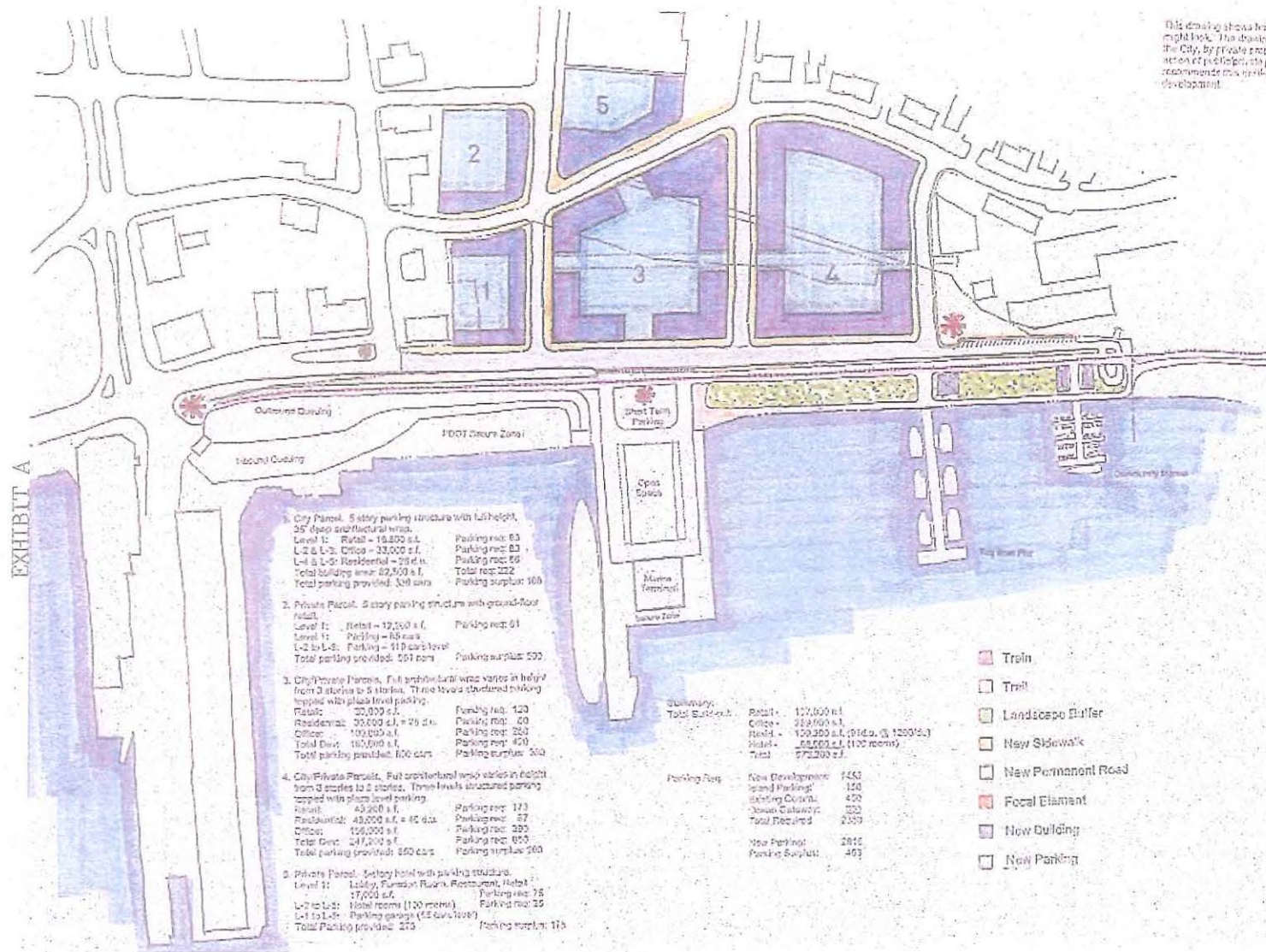
The applicant bought the property with the WSUZ in place. The burden is on the applicant to show that it will be in the best interest of the City to modify the zoning requirements. The Master Plan does lend support for upland mixed uses, provided they are balanced with protecting the water's edge for marine uses. But moving the B-6 zone over to encompass 58 Fore Street is like trying to jam a square peg in a round hole. As there are at least two viable better alternatives, I urge you to recommend that request for rezoning to B-6 not be approved.

Very truly yours,



Barbara A. Vestal

BAV/om
Enclosures
cc: Christine Grimando



Portland Planning Office
Spring 2002

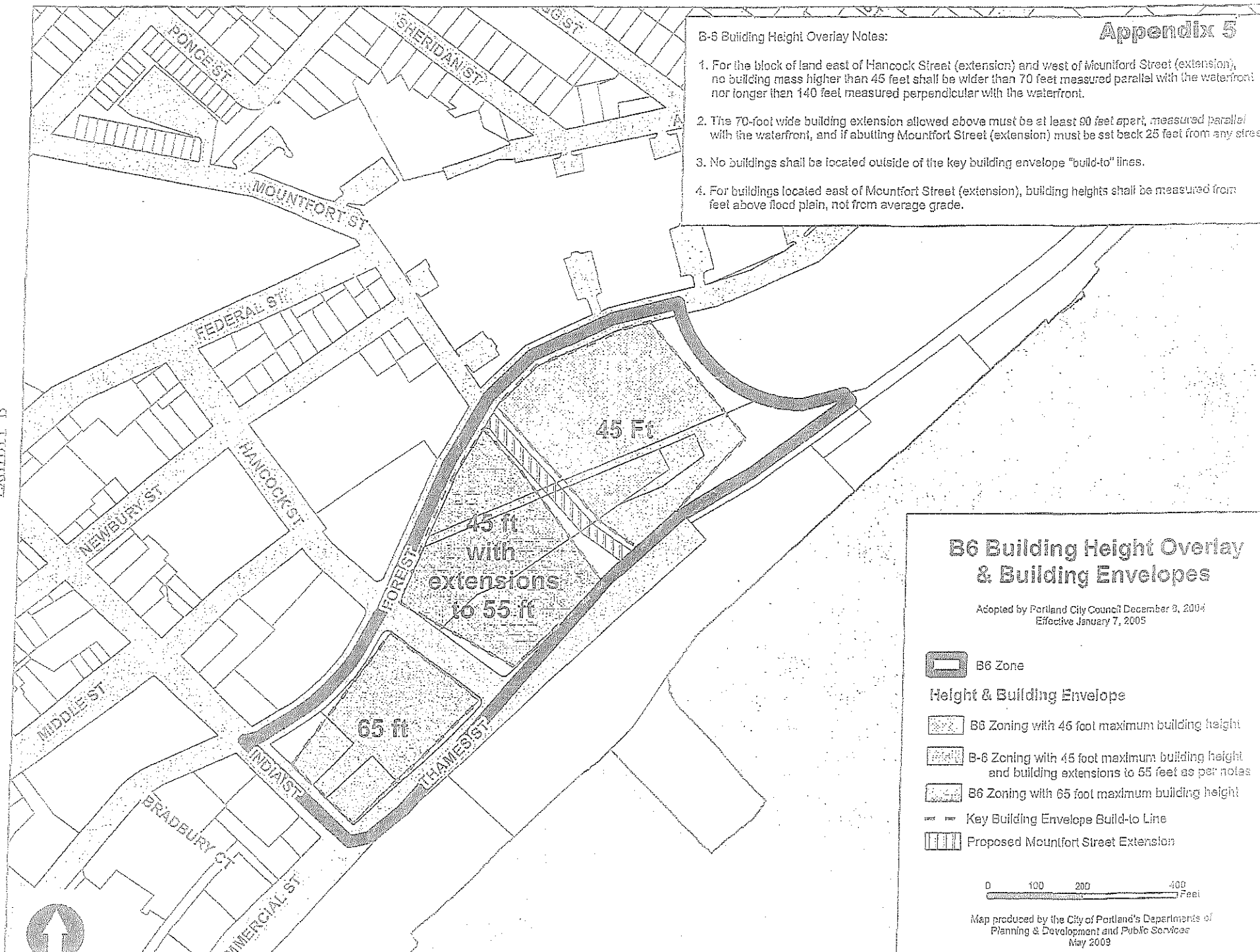
Ultimate Build-out Scheme
Joint Development of City/Private Parcels

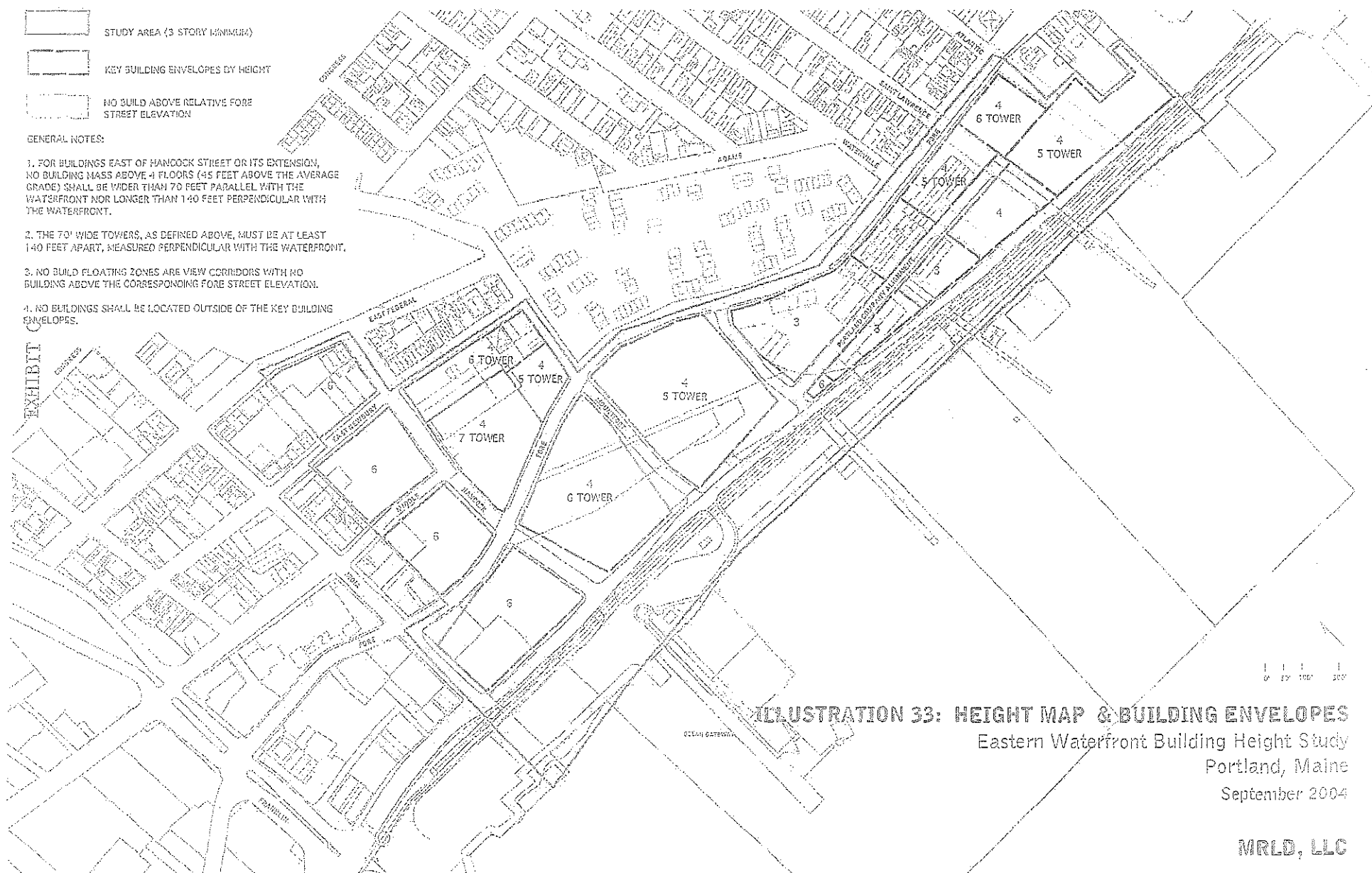
Waterfront Development and
Master Planning Committee

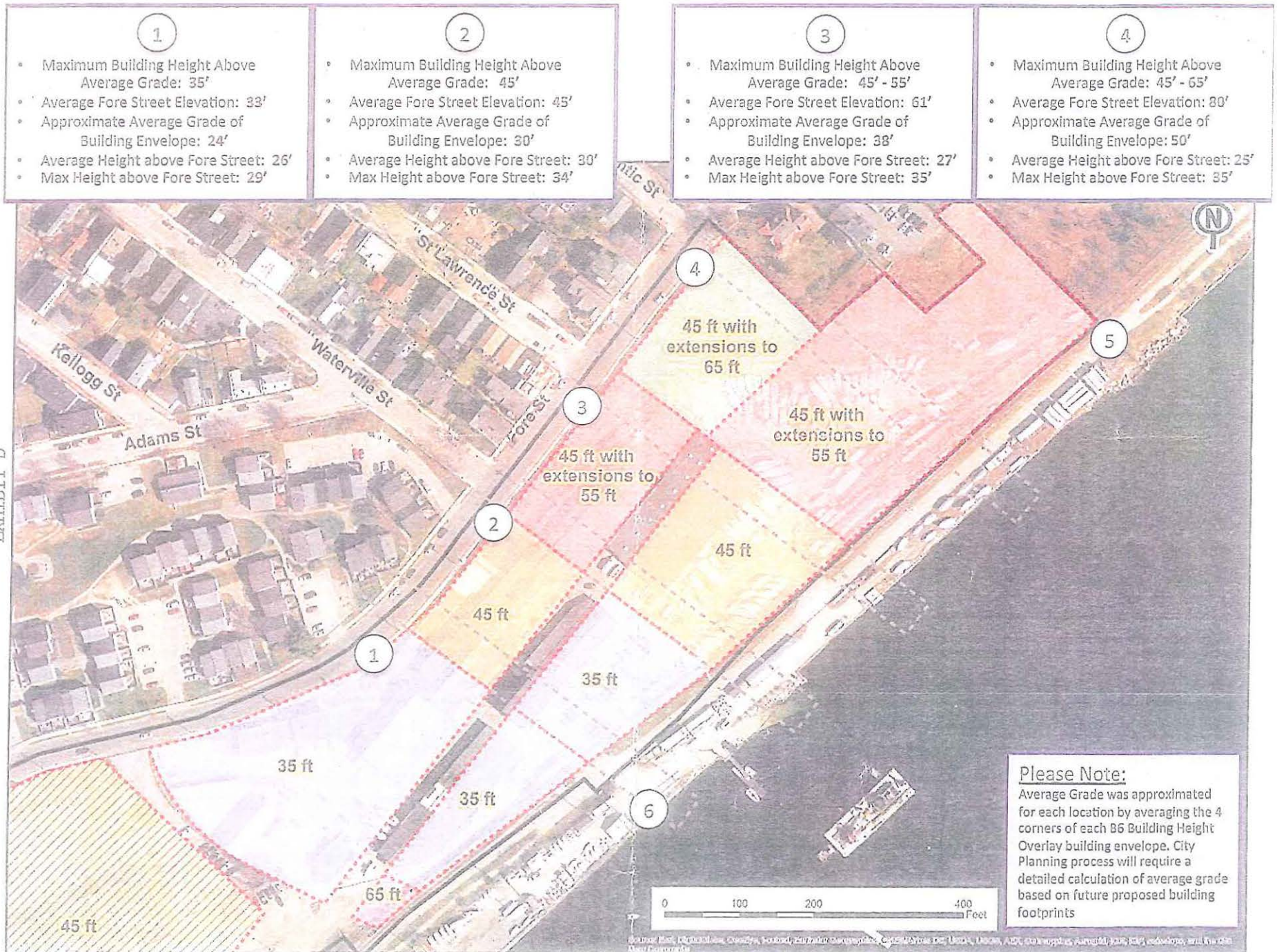
3

B-6 Building Height Overlay Notes:

1. For the block of land east of Hancock Street (extension) and west of Mountfort Street (extension), no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront.
2. The 70-foot wide building extension allowed above must be at least 80 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
3. No buildings shall be located outside of the key building envelope "build-to" lines.
4. For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade.







-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2' ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM. WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

3. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.

4. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.

5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

EXHIBIT E

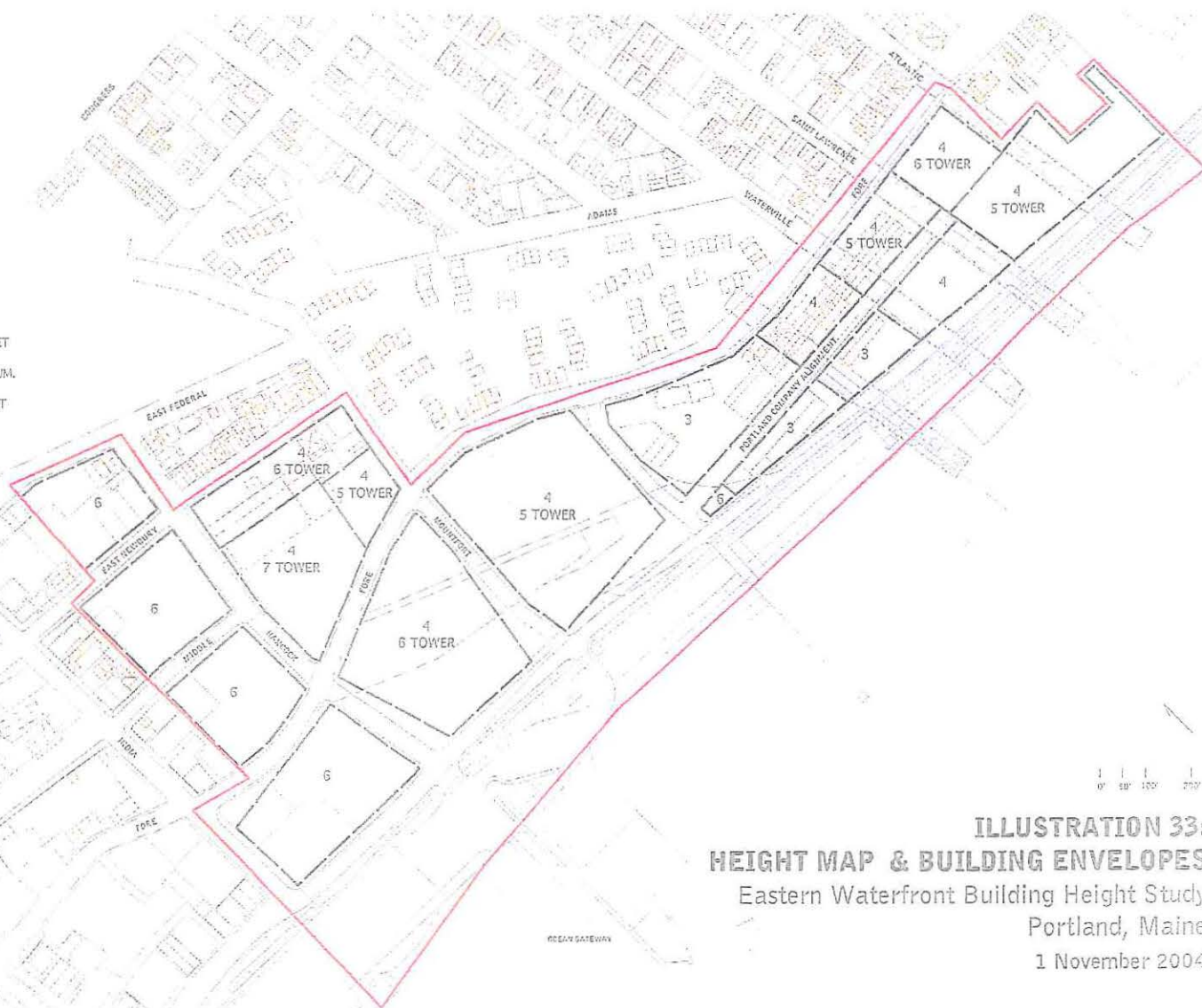
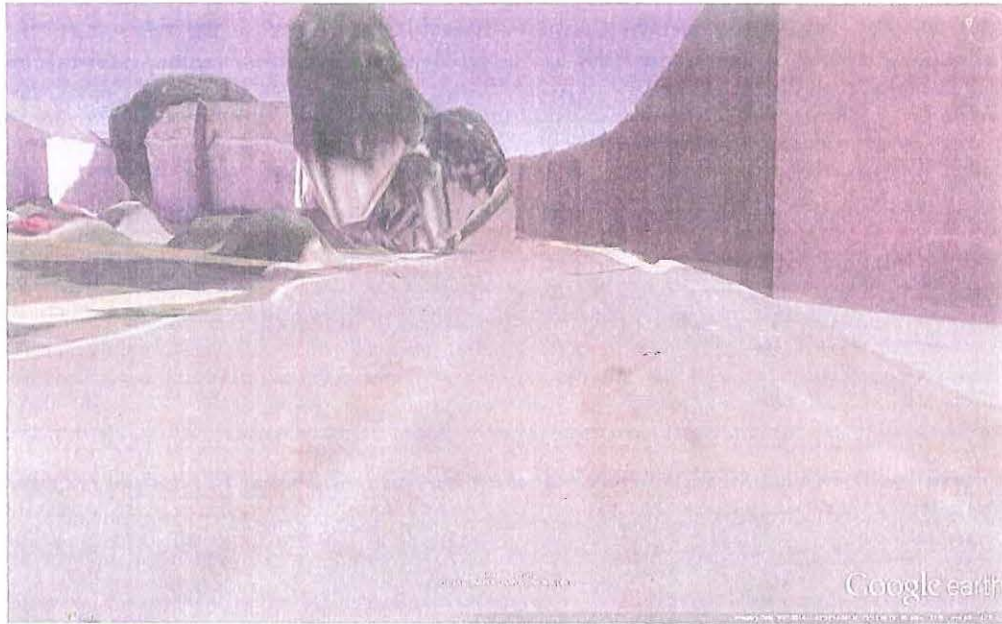


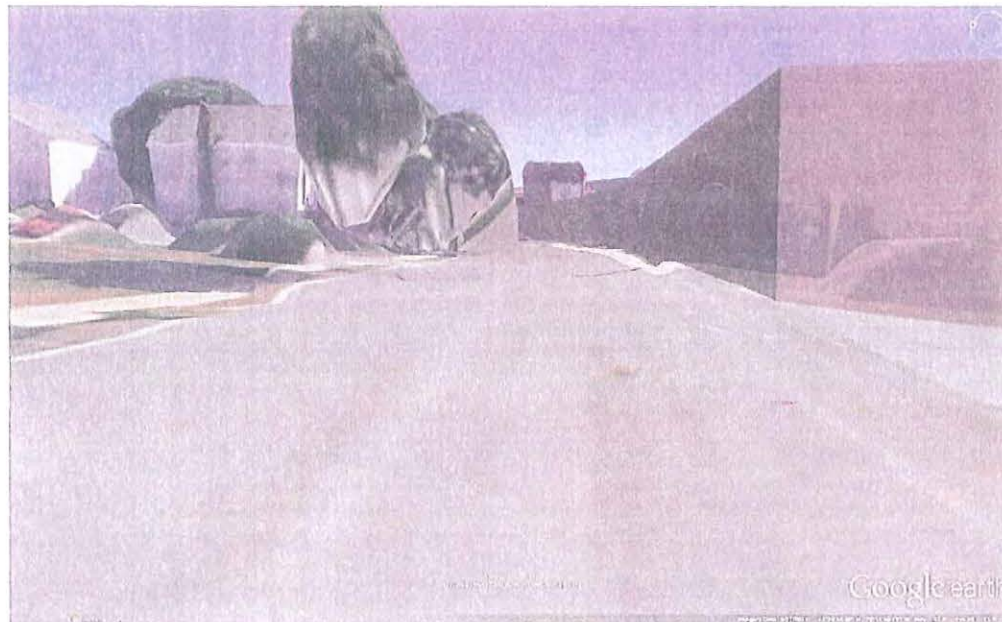
ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

MRLD, LLC



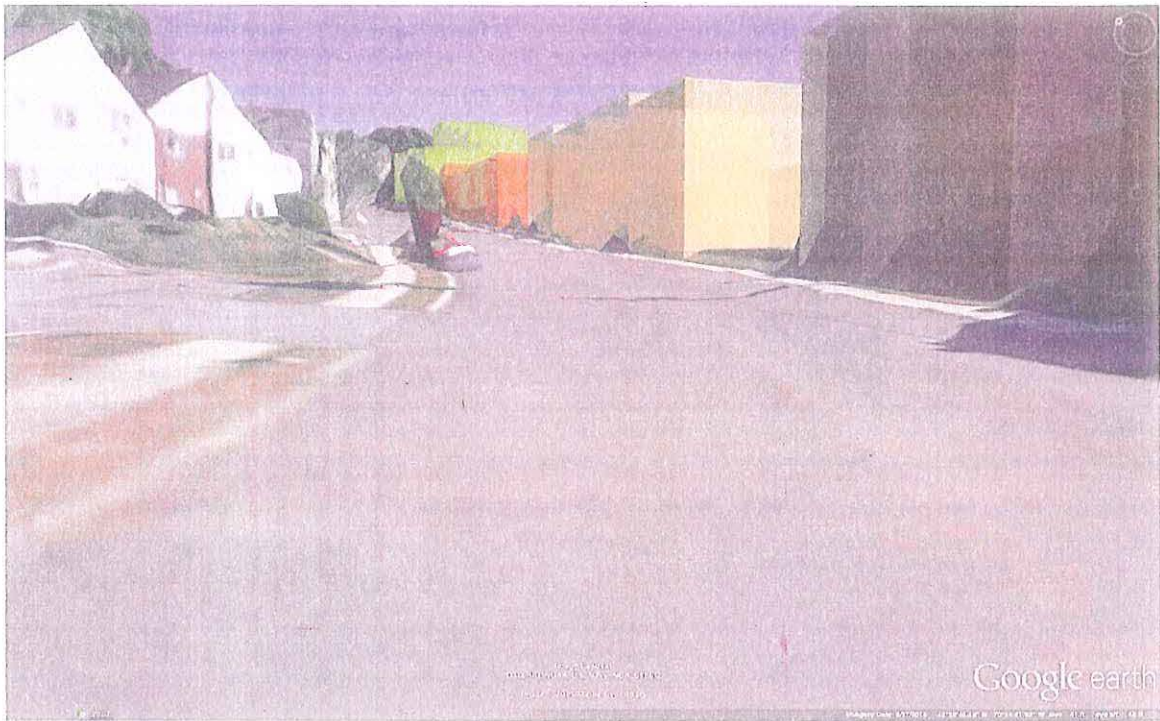
SOUL OF PORTLAND
SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
HEIGHTS ABOVE AVERAGE GRADE



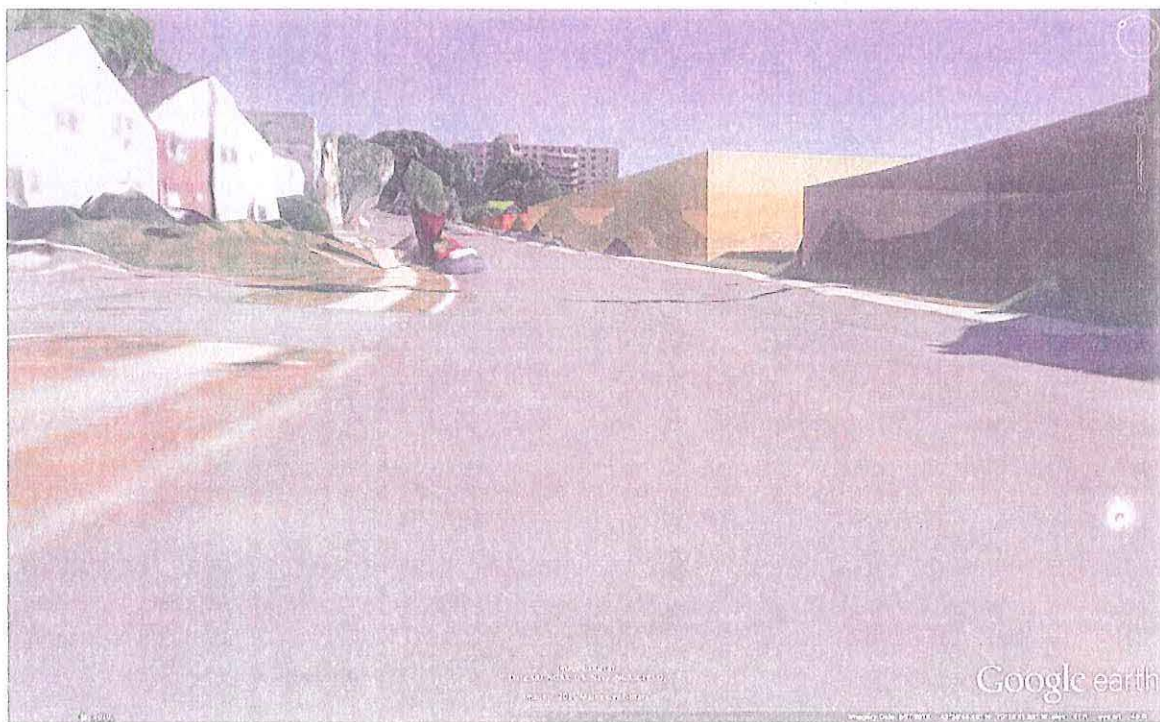
SOUL OF PORTLAND
SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
HEIGHTS ABOVE FLOOD PLAIN



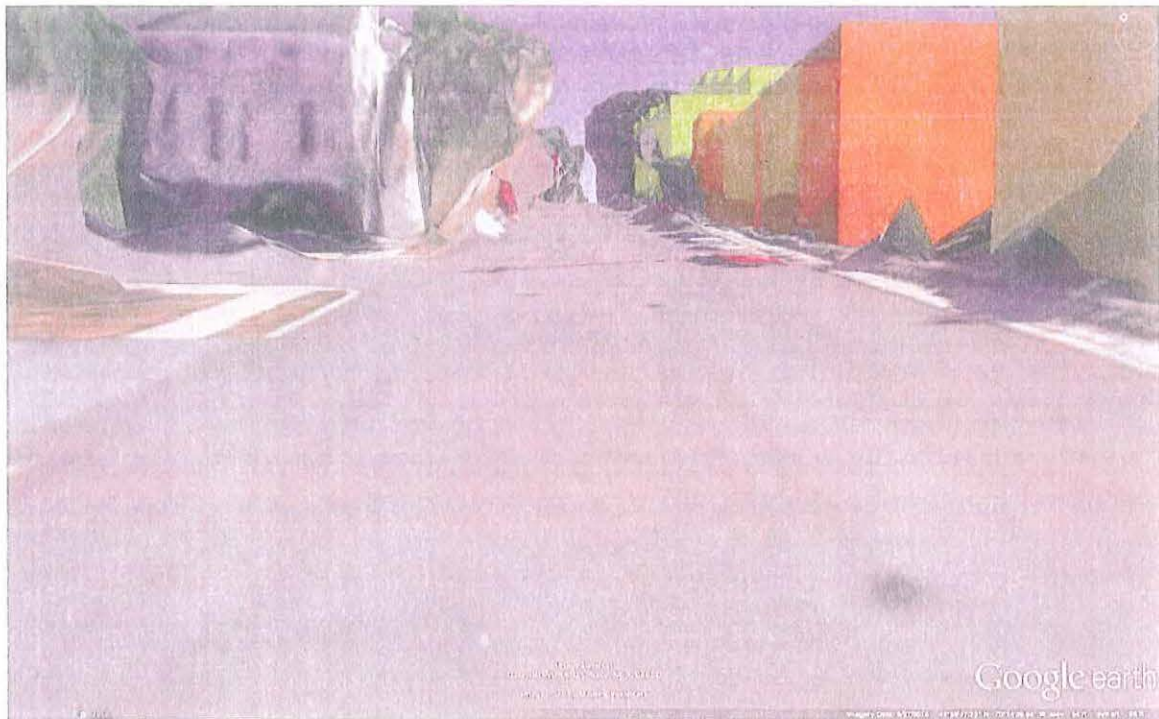
SOUL OF PORTLAND
SOULOFPORTLAND.ORG

58 FORE STREET
HEIGHTS ABOVE AVERAGE GRADE



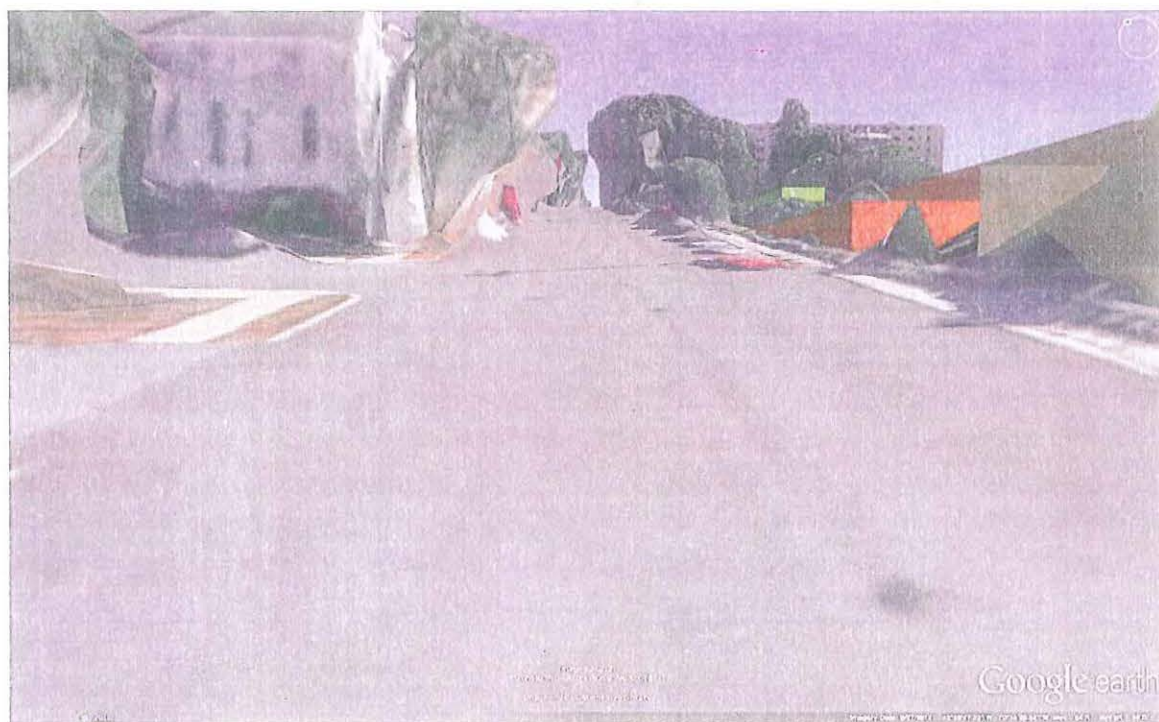
SOUL OF PORTLAND
SOULOFPORTLAND.ORG

58 FORE STREET
HEIGHTS ABOVE FLOOD PLAIN




 SOUL OF PORTLAND
 SOULOFPORTLAND.ORG

FORE STREET & WATERVILLE STREET
 HEIGHTS ABOVE AVERAGE GRADE




 SOUL OF PORTLAND
 SOULOFPORTLAND.ORG

FORE STREET & WATERVILLE STREET
 HEIGHTS ABOVE FLOOD PLAIN

P.O. Box 7602
Portland ME 04112
October 2, 2014

Deb Andrews, Historic Preservation Mgr.
Planning Division
City Hall, 4th flr.
389 Congress St.
Portland ME 04101

Ms. Andrews:

We are writing in support of Greater Portland Landmarks request to designate the Portland Company site at 58 Fore St. as a historic district.

The Portland Company buildings have had a strong impact on marine and industrial work and they have impacted industry nationwide.

This is an opportunity to preserve the last of historical businesses in Portland. We have learned from the demolition of Union Station how deeply that loss has been felt and regretted in this town.

Lets not do it again.

Sincerely,
Errett and Susan Ingalls

October 8, 2014

Paula Guillemette Agopian
98 Monument St
Portland, Me 04101

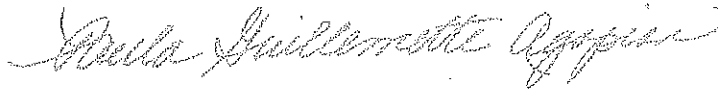
Deb Andrews, Historic Preservation Program Mgr.
City of Portland
389 Congress St
Portland, Me 04101

Dear Deb,

I was in attendance September 25th for the presentation of Sutherland Conservation Consultant's report on the historic significance of The Portland Co. property at 58 Fore St. I found it informational and thought provoking. It conjured up thoughts of Union Station, The Portland Co. is the East End's Union Station. I was aware that the property was of historic significance but was unaware of the far reaching implications on so many levels. I would like to see a presentation of this caliber done for our neighborhood, and will present that to The Munjoy Hill Neighborhood Organization's next Board Meeting on the 13th. This study could prove pivotal and key to the redevelopment of this site. I would hope at all levels of approval that the powers that be let this report weigh heavily in the decision making process. It deserves great consideration. The presenter's words "building removal will have an adverse impact on this site" are still ringing in my ears.

P.S. If there is a tour of the site I would love to participate before it is disturbed!

Sincerely, Paula Guillemette Agopian



Cc. Historic Preservation Chair, Rick Romano and Board Members
City of Portland Planning Board Chair, Stuart G. O'Brien and Board Members
City of Portland Planning Dept. Alex Jaegerman
Greater Portland Landmarks Hillary Bassett, Director
MHNO Board
CPB2 LLC, Jim Brady

Deb Andrews - 58 Fore Historical Significance Concerns

From: Karen Snyder <karsny@yahoo.com>
To: "dga@portlandmaine.gov" <dga@portlandmaine.gov>
Date: 10/12/2014 6:47 AM
Subject: 58 Fore Historical Significance Concerns
Attachments: 58ForeStreetHistoricBuildings.JPG; 58ForeStreetSeaWall.JPG

Dear Ms. Andrews,

I am voicing my concern as many others regarding the 58 Fore street proposed development.

There is a large amount of historical significance to this site, and there are concerns that the developer will destroy the original sea wall of Portland or buildings that are late 1900's that are over the sea wall.

I have attached historical buildings and the original sea wall photos.

There is additional concern by the proposal to change zone ordinances in order for this developer to build an inappropriate height for this area besides blocking the water views of all the residents of Waterville Street.

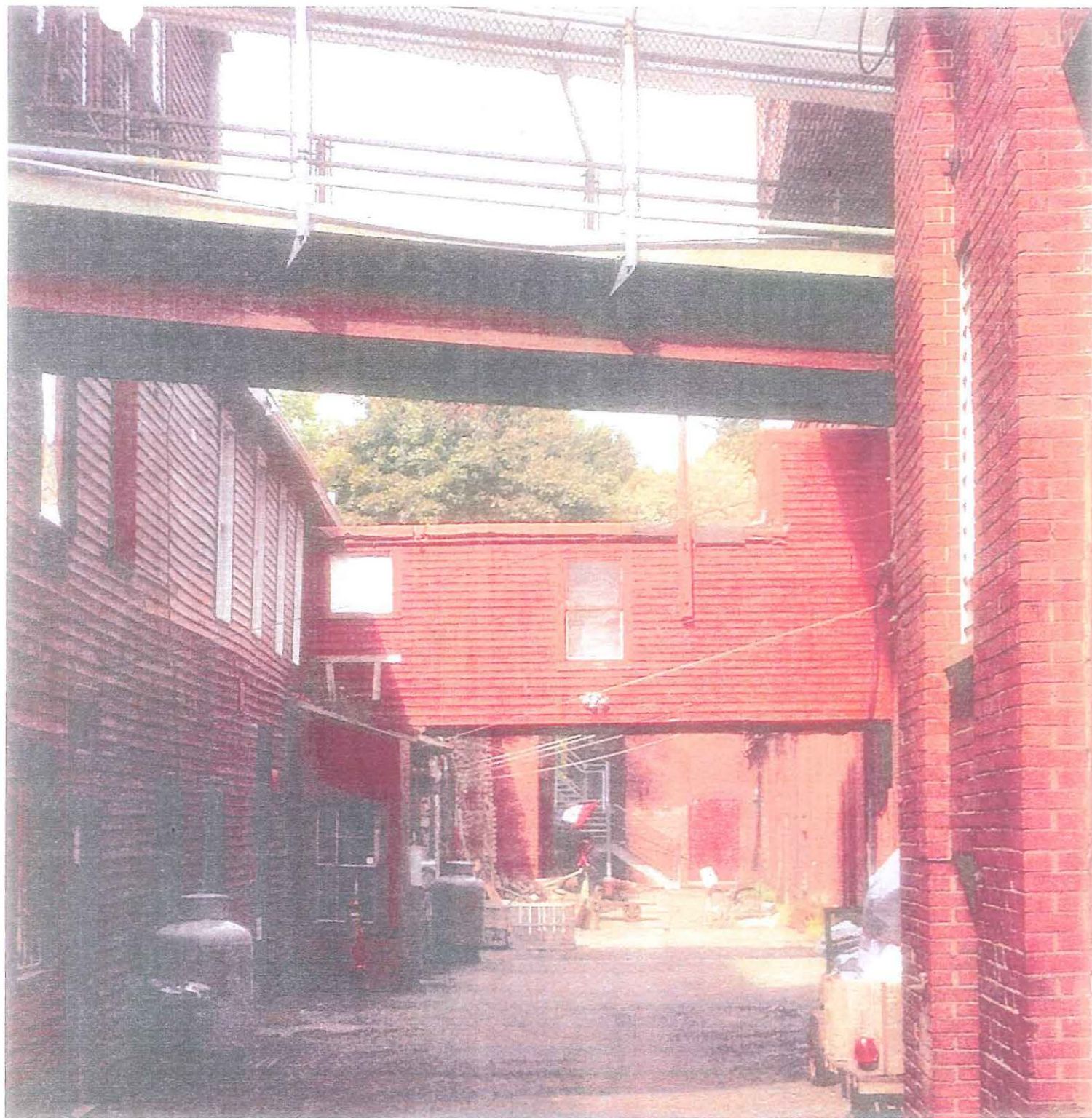
The Historical Preservation board was specifically created as a direct result of the travesty of allowing Union Station to be destroyed to allow a developer to put up a seedy strip mall.

It is up to the Historical Preservation board to PROTECT historical significant structures against the scourge of developers.

Please keep this in mind.

Regards,
K.Snyder
Munjoy Hill Resident





From: Karen Snyder <karsny@yahoo.com>
To: "cdg@portlandmaine.gov" <cdg@portlandmaine.gov>
Date: 10/12/2014 6:57 AM
Subject: Fw: Legal Ads for 10-14 and 10-21
Attachments: PB Lgl Ad 10-14-14.pdf; PB Lgl Ad 10-21-14.pdf

Dear Christine,

I am writing to voice my concerns with the 58 Fore Street zone amendment proposal.

There is concern by many Munjoy Hill residents in regards to this developer destroying the historical significance of the buildings as well as building height concerns for this area in regards to blocking the current water views of all the residents on Waterville Street.

When will the planning board finally respect and listen to the opposition of the local residents regarding all these developers that are trying (with success) in changing ordinances so their profit margins are large at the cost and inconvenience of local residents and the quality of life for the residences?

Regards,
K. Snyder
Munjoy Hill Resident

On Sunday, October 12, 2014 6:50 AM, Karen Snyder <karsny@yahoo.com> wrote:

Hi Helen,

What is the content of the B1 and B2 zoning amendments? Is this specific to 89 Anderson?

The attachment is quite generic.

Thanks.

K. Snyder
Munjoy Hill Resident

On Friday, October 10, 2014 8:44 AM, Jennifer Munson <JMY@portlandmaine.gov> wrote:

Good Moring,

Please see the attached.

Jennifer Munson, Office Manager
Planning and Urban Development
City of Portland
389 Congress St., 4th Floor
Portland ME 04101
jmy@portlandmaine.gov
(207)874-8719
(207)756-8258 (fax)

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Greater Portland Landmarks

Planning Board -- comments re: Portland Company Complex, 58 Fore Street

10/21/2014

Greater Portland Landmarks is especially interested in the proposed plans to redevelop the Portland Company Complex at 58 Fore Street. Recent research conducted by Sutherland Consulting has clearly established the local, state and national historic significance of the Complex as the only intact historic locomotive manufacturing complex remaining in the country. The City is now proceeding with a peer review of the developer's engineering study regarding structural integrity of the historic buildings. These materials are essential to a future consideration of the potential for historic designation of the complex.

Landmarks has several questions we would like to ask.

- a) We understand that what is being proposed is to adopt the zoning and related recommendations from the Eastern Waterfront Master Plan. As part of the documentation in the Mitchell Razor Landscape Design map of 2004 there was inclusion on the map which shows the "Portland Company alignment" that recognizes the "alleyway typology" "like Wharf Street" between the major buildings of the Complex. We believe that the alleyway is an essential character defining element because it reflects the relationship of the Complex to the rail lines and to the manufacturing process associated with the Portland Company. The alignment shown on more recent maps appears to be different than the earlier maps? Has it been changed and if so why has it been changed?
- b) We would like to be sure that any zoning change or presentation of a potential plan for the site will not prejudice or limit historic preservation board consideration of the potential for historic designation. For this reason we urged the Historic Preservation Board to move more quickly to request designation. At the request of staff, the Preservation Board is moving more cautiously. What assurances will the city and the developers provide to support the historic preservation board's requests outlined in their memo of Oct. 15, 2014 that zoning changes not prejudice the review and findings of the Historic Preservation Board as it considers the potential for historic designation of the property?
- c) Building heights are important to us, especially with respect to views of the Complex from the water and views of the harbor from the Portland Observatory. How will the height overlay map apply, and from what level with building heights be measured?

The Guiding Principles of the Eastern Waterfront Master plan specifically call for development to be "Compatible with the surrounding areas, neighborhoods, natural environment and maritime uses, with objectives to "Encourage historic preservation and adaptive reuse of historic structures", "Encourage compatible architecture," and "Preserve significant public view corridors to and from the water and along the waterfront."

Thank you for your consideration.

Hilary Bassett

Executive Director

Greater Portland Landmarks

Lannie Dobson - Fwd: Planning Board Workshop on Portland Co.

From: Christine Grimando
To: Dobson, Lannie
Date: 2/20/2015 1:30 PM
Subject: Fwd: Planning Board Workshop on Portland Co.

One more, which came in on the 10th, but that I hadn't gotten into the folder.

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cde@portlandmaine.gov
Ph: (207) 874-8608

>>> <bristolchrismal@aol.com> 2/10/2015 9:47 AM >>>

Dear Christine,

I was planning to attend this meeting, but it now looks very unlikely that I can. So I would be very grateful if you would put this question for the Board's attention.

I was going to say something about the extraordinary value of the Portland Company complex, including its entire extant layout, in terms of industrial history, and indeed the history of the resurgence of Portland as a port city in the 19th century. But the report commissioned by the City from Sutherland Conservation and Consulting says all that needs to be said. Just reading the Executive Summary alone, especially the Findings, is enough to elevate the importance of the site to a national level in one's awareness.

I presume the Board members are all familiar with the Report. Two quotes from the Findings are worth restating here:

"All of the buildings constructed over 50 years ago contribute to the historic significance and integrity of the Portland Company complex;" and ...

"The removal of any of the historic buildings ... will diminish the ability of the complex to demonstrate the historic manufacturing process of the Portland Company."

So I am asking the Board for reassurance that they will be guided by this report and its findings in making decisions on this current planning application, or any revision of it.

Thank you,
Chris Small,
Freeport, Maine,
(Volunteer 1996-2010, and one-time Board member, at the Maine Narrow Gauge Railroad)

From: <dpreisse@maine.rr.com>
To: <cdg@portlandmaine.gov>
Date: 11/11/2014 11:43 AM
Subject: 58 Fore Street
Attachments: photo-19 copy.JPG; photo-19.JPG; SO2.JPG; Cruise ship.JPG

Dear Christine,

I am emailing you to share my thoughts in regards to the 58 Fore Street zoning change and in particular the site plan that has not yet been seen. I have attended the open forum with the developer as well as the city hall meeting for public comment. It is hard for me to support a zoning change without seeing the site plan that demonstrates the building heights above Fore Street. I can not attend the site walk or the public comment meeting on the 18th so wanted to share my thoughts with you to share with Council and Developers.

I do live on Munjoy Hill and each day I am in awe of the panoramic active harbor view that is seen now freely from the overlook driving/walking/biking on Fore Street between Waterville and St. Lawrence. I have observed hundreds of people and the tour/trolly buses as they stop for a short glance traveling this street. I know there are many who appreciate the unique beauty yet do not take part in civic action to save what could be lost.

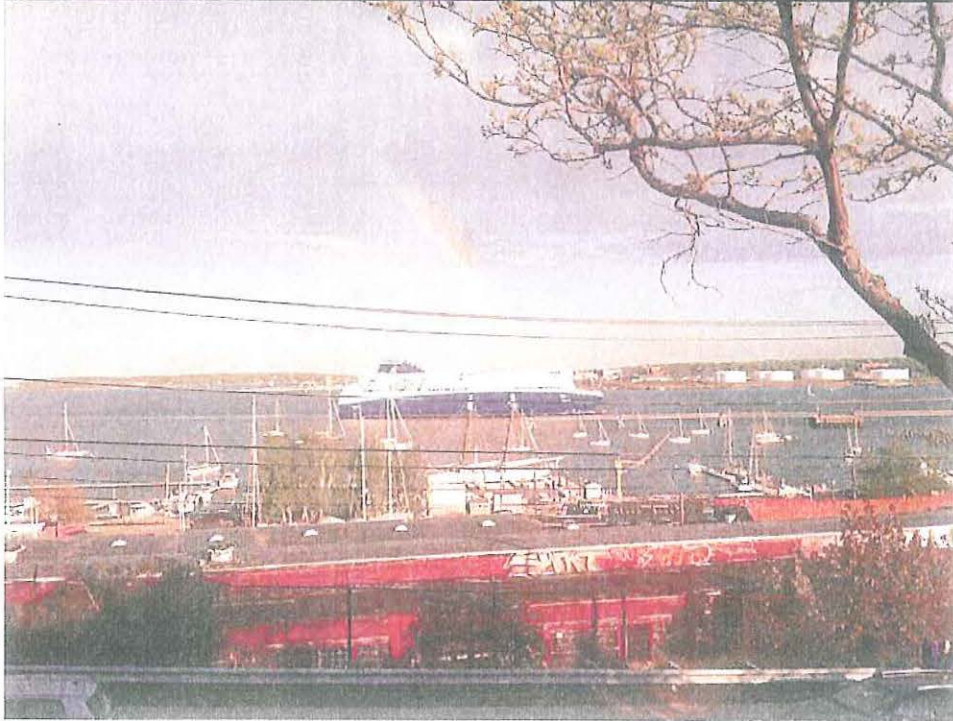
Development of the property and all the ideas generally presented by the developers sound interesting to me and others I have spoken to. I am very concerned with the zoning approval of the height and the height overlay plans. It is so confusing to me even after all the dialogue. I believe at one time I heard in a presentation by the developer that the buildings could be 14-22 feet ABOVE Fore Street. That scares me to death and I can vision another mass half the height of the Portland House blocking the suns warmth and birds eye views so breathtakingly wonderful now. I am well aware of snake oil sales pitches and asking for zoning changes and getting something that was not wanted or expected but is allowed with these changes. I strongly support saving all the historical buildings (the Flower Show building was not marked in the developers presentation to save) and promoting this site as a historical district with the guidance and expertise of Portland Landmarks and the Historical Society.

The scaffolding view from the water to the residential area to the Observatory are just as vital as those looking down the hill to the vitality on the water. I have included a couple of pictures to express this greatness that occurs in Casco Bay that some may not have seen. Preserving this one last bit of scenic overview is vital and not to be lost for myself, my neighbors, Portlanders, tourists or for future generations. Please keep this point in mind as you make recommendations to the City Council.

I would encourage the City Council to not only walk the actual site but also take a stroll up the hill on Fore Street to experience this feeling of being on top of the world, a stop to catch one's breath, and savor the breathtaking beauty of the working/recreational waters of Casco Bay.

Best,
Denise Preisser







From: Brian Burwell <burwell@maine.edu>
To: <edg@portlandmaine.gov>
Date: 11/14/2014 8:56 AM
Subject: Planning Board, 58 Fore Street, Protecting Pedestrian Views

Dear Planning Board members,

I am writing to defend existing pedestrian "key views of the harbor....a community resource to be preserved and protected...." ("Design Guidelines for the Eastern Waterfront", p. 12, Adopted by Comprehensive Plan, 2002)

I appreciate the wonderful views along Adams and elsewhere, but am most familiar with the two blocks of Fore Street sidewalks between Waterville and Atlantic Streets.

While working on a three family residence at the corner of Waterville and Fore, I observe large numbers of neighborhood people walking these sidewalks to and from downtown and "around the block". In nice weather multiple small groups of downtown office workers walk up and down the Fore Street sidewalks during their lunch breaks. Many visiting tourist often stop in wonder and take pictures of the sailing schooners, ferries etc. and of themselves in front of the wire fence.

The existing four story Portland Company buildings situated along these two blocks do not interfere with sidewalk views because of the high elevation of Fore Street relative to the level land below. The cover and last page illustration (Section E Existing and Proposed East/West with Congress Street and Fore Street Elevations) of the "Eastern Waterfront Building Height Study" (adopted by the Comprehensive Plan in 2004) show how existing and anticipated four story structures preserve those sidewalk views.

The "Eastern Waterfront Building Height Study" allows for 70 foot wide towers separated by 140 feet. Such a tower in front of the Waterville to St. Lawrence Street block would interfere with the existing wonderful view of harbor activities. During the decade since this detailed height study was adopted, significant changes have occurred and continue to trend which strongly argue for preservation of unobstructed views and therefore against towers which would depreciate these views:

- * Increasing resident population in the neighborhood as a result of "infill" development and additions.
- * People walking and jogging more for healthy exercise.
- * Increasing numbers of tourists.
- * Increasing recognition of the value of pedestrian views of important natural elements. Many cities including Seattle, San Diego, Austin and Portland, Oregon incorporate preservation of such views into their development design criteria.
- * Blockage of pedestrian views by new construction to the west of Mountfort St.

To what extent these views, unique to Portland, are to be forever lost by a large public to be replaced by private structures (residences?) for a relatively few, is before you. I request that you consider the developers' opportunities for substantial development on these ten acres with little or no obstruction of current views.

Lastly, resident evaluations of developer plans for the site could provide valuable inputs to Planning Board and City Council members tasked with melding CPBE's rights and citizen interests. Award of B-6 zoning would provide substantial value to CPBE and could follow, not precede, resident vetting. Lack of a site plan for the "Neighborhood Meeting" of September left residents frustrated and distrustful. Without a site plan, residents are left jousting windmills like Don Quixote. I request that the Planning Board require a site plan from CPBE and obtain public input, both positive and negative, before deciding whether or not to recommend a zoning change from Waterfront Special Use Zone to B-6.

Thank you.

Brian Burwell
Owner, 31 Fore Street

burwell@maine.edu

From: Barbara Barhydt
To: Grimando, Christine; Jaegerman, Alex; Munson, Jennifer
Date: 11/14/2014 7:58 AM
Subject: Fwd: 58 Fore Street site visit and workshop

public comment

>>> Peter Macomber <pbm@macomber.com> Friday, November 14, 2014 7:16 AM >>>

Dear Chair O'Brien, Planning Board members, Planning Director Jaegerman and staff:

My name is Peter Macomber and my wife, Pam, and I live on Munjoy Hill. We have been residents of Portland since 1979, the last two on the Hill. I will be out of town next week during the scheduled site visit and the hearing, so I am sending this lieu of attending and commenting.

The purpose of your site visit and workshop is to review the building height overlay as it applies to the proposed zoning change. Because it also relates to building heights, it is also very important that you take into consideration the breathtaking pedestrian viewshed of Portland harbor from Fore Street between Atlantic and Waterville streets. This is to my knowledge the only publicly-accessible elevated viewpoint in the entire city that encompasses such a magnificent panorama of the inner working harbor, including the Gateway terminal and visiting cruise ships, the South Portland waterfront and the never-ending ship traffic.

This viewpoint has always been there throughout the history of the city, never blocked by any buildings and always freely accessible to all who walk by.

As a property owner in this area, I can attest to the surprising number of people who abruptly stop as they walk up or down Fore Street and are mesmerized by the view, sometimes for minutes at a time. Or to the cars that suddenly pull over to the side of the street, people piling out and excitedly taking pictures of the panorama or of the cruise ships.

And when the sun is low and illuminates the entire harbor with a quality of light that's unique to Maine, the scene is nothing short of magical.

This awesome landscape and seascape is part of the soul of Munjoy Hill and truly belongs to all of Portland. It must be preserved by ensuring that any development does not impinge on that entire view. Keeping the maximum building height of any development at or below the grade of Fore Street would do it.

(A thought about the so-called "view corridors" that are part of the Eastern Waterfront Height Study: they're a ridiculous sop to the public and are tantamount to telling people to look through the wrong end of a telescope with blinders on; those corridors only compartmentalize and minimize the view and conceal more than they reveal. The only real "view corridor" is the one that fully encompasses the entire viewshed, not tiny slivers of it!)

—

The B-6 zone as it currently exists requires that the minimum new building height within 25 feet of a street is 3 stories. This requirement is quite appropriate in the current B-6 zone, but obviously not appropriate in the proposed development. The developer's refrain is that they merely want to "drag over the existing B-6 zone" to the Portland Company property, but to "drag over" all requirements of that zone without closely examining how they'd impact the unique conditions of the property would be inappropriate.

But there's at least one aspect that would be appropriate: at the last public meeting, some questions were asked about the current B-6 Height Overlay map and the phrase "feet above the flood plain, not from average grade" as it applied to building heights on one particular lot of land. But it actually makes a lot of sense if you think about it. Fore Street begins to climb steeply as it passes to the east of Mounfort Street, so calculating the building heights from the flood plain instead of the average grade takes that steep climb into consideration. Because otherwise an envisioned 45-foot maximum building height could translate into 55 or even 65 feet if the average grade was used instead.

It is very important to follow the same reasoning as you consider building heights in the proposed development. Fore Street climbs even more steeply beyond Waterville Street while the Portland Company property is primarily on that same flood plain. Average grade calculations could result in buildings that ludicrously not only tower over Fore Street, but are the equivalent of 80-90 feet

above the flood plain. Using average grade calculations on what is basically a cliff edge is highly inappropriate, and would be a flawed methodology for this zoning. And since about 85-90% of the Portland Company land is at the flood plain level, using that as a basis for building heights makes far more sense.

I humbly suggest that during the site visit next week you include a short walk up Fore Street between Waterville and Atlantic streets so you can see for yourselves what I'm writing about. Enjoy that view!

The Planning Board's work will be very difficult in the weeks ahead. I thank you for your time and energy as you consider this zoning change. Please know that Pam and I are both very much in favor of a vibrant, yet thoughtful development of the property. But surely there is a way to keep this very special public viewshed forever open as well as provide the developers an opportunity to maximize their returns. I ask that you keep in mind these comments as you preserve this precious asset for the future of the city and its inhabitants and visitors.

Respectfully,
Peter & Pam Macomber
Saint Lawrence St.

From: Jeff Levine
To: Caitlin Cameron; Christine Grimando; Tammy Munson
Date: 11/19/2014 3:09 PM
Subject: Fwd: outdoor seating and height restrictions

On outdoor seating and 58 Fore Street.

Jeff

Jeff Levine, AICP
Director
Planning & Urban Development Department
389 Congress Street 4th Floor
Portland, Maine 04101
Phone (207)874-8720
Fax (207)756-8258

[@portlandplan](http://www.portlandmaine.gov/planning)
(<http://www.portlandmaine.gov/>)

>>> Nancy <nkacatalyst@msn.com> 11/19/2014 2:35 PM >>>

Hi Jeff- I saw your name from a recent PPH article. As a Portland resident (15 years on Little Diamond Island) and almost 8 years on Craigie Street) I would like to share my opinion on two recent issues.

1. As someone who LOVES to eat and cherishes the warm weather when we can eat outside in Portland, I do enjoy the outdoor cafes and seating areas at many of Portland's restaurants. My concern though is when the dining tables and robe dividers stretch onto the sidewalks pushing people to the road. It seems antithetical to the idea of a side "walk". All summer and fall we walk down Commercial street from our Parking spot on Widgey Wharf to the Casco Bay Lines. This year, I particularly noted (not just at Cruise ship times) that it was very difficult to walk down the sidewalks. It was the sidewalk cafes, food and craft vendors, and even the lines for the Trolley and day-time boats that cause multiple bottlenecks. While I support the tourist industry and want Portland small businesses to thrive, I just worry about how many times, we and others have to walk in the street because the sidewalks are too crowded. I also noticed people in wheelchairs and the elderly having a difficult time getting by. I am an able-bodied person, but pulling our luggage down the sidewalk has been very difficult because the sidewalk space is so limited. So I hope you will consider the safety of "walkers" as well as the diners when determining the line on the sidewalks for outdoor dining.

2. In today's paper there is discussion about increasing the height of new building at the bottom of Munjoy Hill/Fore Street. While I don't live in that part of town, I do appreciate the view not just from the mainland but looking at the city from the water as well. I know "view" might be less motivating than "business revenue" and potential tax, but I travel enough to other towns/cities to recognize that this is one of the unique features of Portland. I hope you and Portland will think long and hard about extending the heights and variances, as once it's gone, it's gone. I do believe one of the reasons Portland has been featured in so many articles and magazines polls lately is because of its unique character and balanced growth. Hope we can keep it that way.

Thank you very much for reading my email and considering my opinion when you make your decisions.

Nancy

Nancy Ansheles
186 Craigie Street
Portland, ME 04102
207-774-3634
207-272-5009 (Cell)
nkacatalyst@msn.com

CHESTER & VESTAL

A PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

107 Congress Street, Portland, Maine 04101

Telephone (207) 772-7426 Fax (207) 761-5822

EDWIN P. CHESTER
BARBARA A. VESTAL
MICHAEL P. DIXON

chester@chesterandvestal.com
vestal@chesterandvestal.com
dixon@chesterandvestal.com

February 19, 2015

Chair O'Brien and Members of the Planning Board
c/o Christine Grimando
Planning Department
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Portland Company Complex

Dear Chair O'Brien and Members of the Planning Board:

At the February 10th Planning Board workshop, some members of the Board seemed to indicate that the abutting neighborhood's concerns would be addressed during the master planning process by reference to the publication "Design Guidelines for the Eastern Waterfront." That document was adopted in October 2004 as Appendix C of the Master Plan for Redevelopment of the Eastern Waterfront.

I want to make sure that those Guidelines really will apply if the Portland Company site is rezoned to B-6. And I also want to make sure that what is contained in those Guidelines will make sense when applied to the site.

I am concerned that these Design Guidelines will not apply unless proper text amendments are adopted as part of the zone change. This should be taken care of by the Planning Board before it goes to the City Council.

14-526(d) Site Design Standards (9) Zoning Related Design Standards (a) states that certain development "as specified below" is subject to design standards in addition to the regular site plan standards. Subsection (i) includes B6 in the heading but omits B6 in the text. The applicant has proposed to put it in. (See attachment with applicant's proposed amendment.) That text amendment is necessary but does not go far enough.

That provision goes on to say that the development "shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the [City of Portland] Design Manual (emphasis added)."

The Design Guidelines for the Eastern Waterfront are not included in the City of Portland Design Manual. Other design standards are quoted in full in the text or are incorporated by reference to a numbered appendix and then attached in full in multiple numbered appendices. For example, appendices include the Downtown Urban Design Guidelines (48 pages), the USM Design Principles and Standards (7 pages) and B-7 Design Guidelines (23 pages).

In contrast, the entire treatment of the EWPZ and B6 is as follows:

"(1) STANDARD. Eastern Waterfront design standards: All major and minor development reviewed under the provisions of the eastern waterfront zones shall be designed to support the development of this urban neighborhood as a dense, mixed use, pedestrian friendly neighborhood."

It does not incorporate the 23 pages of the Design Guideline document in any way. It does not say that development should be consistent with the Design Guidelines for the Eastern Waterfront. That document is not included in an appendix to the Design Manual. The only appendix that appears to be related is Appendix 5, the one-page B-6 Building Height Overlay & Building Envelopes map.

This could be easily fixed in multiple ways, one of which would be to add in the site plan ordinance after "Design Manual" the language "or contained in Design Guidelines for the Eastern Waterfront."

I am also concerned that these Design Guidelines for the Eastern Waterfront will not make sense when the Board tries to apply them to the Portland Company site because they are premised upon a PUBLIC street and sidewalk grid. The applicant has yet to propose any circulation pattern within the site. It has said that it is not its intent to create a gated community. I believe many members of the public would be against a gated community as well.

However, it is my understanding from the applicant that the City staff has told the applicant that, for a variety of reasons, it does not want the internal circulation grid to consist of public streets. It is my understanding that the applicant and City staff are envisioning that this might be developed using private roads, perhaps subject to an easement for use by the general public. I think it is important to provide for this possibility as part of the zone change.

If these are to be private roads rather than public streets, it would be problematic for the Board to apply a statement such as the following in a master plan context if there are, in fact, no "streets":

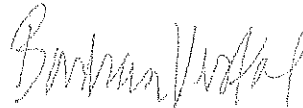
Sidewalks are key to defining streets as civic places. Sidewalks should be provided along both sides of all streets and should be wide enough to accommodate visiting and residential pedestrians comfortably and safely. (p. 3)

Chair O'Brien and Planning Board Members
February 19, 2015
Page Three

There are numerous references throughout the design guidelines to street corridors, street hierarchies, treatment of street frontages, etc. The determination of public streets vs. public easements may be a question for a later day. But if the Design Guidelines are to be successfully applied as intended, this possibility needs to be anticipated. Site Plan Design Standards 14-526(d)(9)(a)(i) should be amended to further add after "or Design Guidelines for the Eastern Waterfront" (as proposed above) "and further, in the B6 and EWPZ, if the Planning Board votes to accept private roads with public easements in lieu of public streets, the Design Guidelines shall be applied and interpreted as if the private roads were public streets."

Finally, the applicant has proposed an amendment to this same site design standard to address permeability. It is responsive to neighborhood concerns to address that. However, the applicant's proposed amendment would "promote permeability through and within the development at a scale compatible with the existing street network of the Eastern Waterfront." Instead of using the massive-block, street network of the current Eastern Waterfront. I believe it is much more in keeping with the Design Guidelines for the Eastern Waterfront to promote a scale compatible with the central waterfront and the Munjoy Hill neighborhood.

Very truly yours,



Barbara A. Vestal

BAV/om
Enclosure
cc: Christine Grimando

maintained to ensure stable, safe and attractive site conditions.

Sec. 14-526. Site plan standards.

14-526(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) B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual. ^{VESTAL AMENDMENT} ~~New~~ ^{BELOW} development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.

- 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

** or contained in Design Guidelines for the Eastern Waterfront, and further, in the B6 and EWPZ, if the Planning Board votes to accept private roads with a public easement in lieu of public streets, the Design Guidelines shall be applied and interpreted as if the private roads were public streets.

February 19, 2015

To: Portland Planning Board
Re: Portland Company Re-zoning
From: Paul Stevens
21 Thomas St
Portland

In May of 2012, my architect great grandfather, John Calvin Stevens, wrote in an op-ed to the Evening Express: "Portland has by nature been granted exceptional opportunities. These opportunities have been in many cases sadly neglected by her citizens. They have sat quietly by and seen the finest chances for beautiful development ignored and spoiled". I too have sadly and often observed this in my nearly 50 years as an architect and Portland resident.

The re-zoning of the Portland Company is the "exceptional opportunity". Many citizens spent years developing a thoughtful plan for the Eastern Waterfront. That plan was partially implemented with new B-6 zoning and the Eastern Waterfront Design Guidelines. The Portland Company site was exempted at the time although it was fully intended to be included. It is now time to follow through and pave the way for what can be a significant development at our front door on the Atlantic. It is significant for its promise of adaptive reuse of the historic structures, opportunity for new construction and contribution to our property tax base. The owners of the property have signaled their intent to embrace the planning and vision for this property established by our citizens. They will have to opportunity to demonstrate this in the master planning process that will follow the re-zoning.

It is way past time for Portland to say "yes" to such an opportunity. To say "no" will relegate the Portland Company site to inappropriate under use and eventual loss of its historic structures.



Portland Company Re-zoning; The PSA statement of support.

The PSA supports the re-zoning of the Portland Company for mixed use. The development of this, the most important site in Portland, will be of significant benefit to our citizens both economically and environmentally. The applicant has embraced the vision set forth by the Eastern Waterfront Master Planning Committee and memorialized in the existing B-6 zoning ordinance and the Eastern Waterfront Design Guidelines. The re-zoning will create the opportunity for adaptive re-use of the historic buildings, exciting new architecture and increased public access to a renewed landscape on the harbor's edge. We urge the Planning Board to support this important initiative.

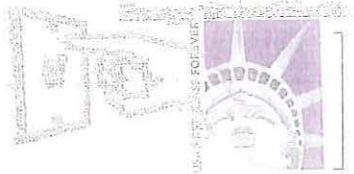
Portland Society for Architecture
PO BOX 5321
Portland, Maine 04101
www.portlandarchitects.org

Save the valued view. 441-2014-P421

Please share your thoughts
about building height and site
plan views with the City
Council members and
developers of 58 Fore Street.

I frequently walk on the
biki/pedestrian path along the
waterfront between the Old
Port and the Eastern Prom.
The sight of the Observatory
on the crest of Munjoy
Hill, and the historic architecture
on the slopes are a very
important part of the
character of the East End.
Any additional height will
block that view including
the Observatory. Do not
let that happen. Sincerely,
Mandy White
Saint Lawrence St. 01101

Card design by portlanddenise@gmail.com



Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
380 Congress Street
Portland, Maine 04101

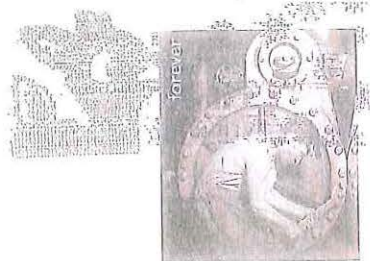
Save the valued view. 441-2014-P431

Please share your thoughts
about building height and site
plan views with the City
Council members and
developers of 58 Fore Street.

While our views
will not be blocked
substantially, The
Pedestrian views of
"Feel" of Fore Street
will be severely
damaged if they build on
Fore Street.

1356633

Card design by portlanddenise@gmail.com



USA | Building a Nation

Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
380 Congress Street
Portland, Maine 04101

This van is taking
a waterfront


September 1, 2014

Good day.

In Portland, there is talk that the city officials are considering rezoning for the owners of the Portland Company, who have purchased 10 acres on the ocean at 58 Fore Street in Portland, Maine. They want to add thirteen acres of "submerged" land, enabling them to turn their ten acres into twenty-three acres,

If this is acceptable, then I, as an owner of two acres on the ocean, should be able to use "submerged" land to add another 2.6 acres to my land.

They are increasing their land by 130%, and I should be able to do the same.

Why not?!!

A very concerned citizen

SEP - 3 2014

Dept. of Building Inspections
City of Portland Maine



Save the valued view

Please share your thoughts
about building height and site
plan views with the City
Council members and
developers of 58 Fore Street.

AS PORTLAND
RESIDENTS WE
ARE CONCERNED
ABOUT LOSING
A UNIQUE VIEW
WHILE IN A
REJUVENATED
ATTRACTIVE
TOWN.

Steve Schell
via Schiffman

Card design by portlanddenise@gmail.com



Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
389 Congress Street
Portland, Maine 04101

Save the valued view

Please share your thoughts
about building height and site
plan views with the City
Council members and
developers of 58 Fore Street.

1/12/15
please, please, please don't
let a zoning change
happen that benefits a
few and that will ruin
the feel of an entire
neighborhood of Portland
and block a connection
with the water.

Thank you to your

01354933

Card design by portlanddenise@gmail.com



Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
389 Congress Street
Portland, Maine 04101

Barney Waterhouse
9 Waterville St #49C

Save the valued view

Please share your thoughts
about building height and site
plan views with the City
Council members and
developers of 58 Fore Street.

Honestly? I feel that the
city is prostituting
itself for the almighty
dollar and a claim to
fame - tall fame. This
will all be realized when
it is too late. How sad.
Where is preservation of
that that is good? Soon we'll
look like any other city.

Card design by portlanddenise@gmail.com

Tyler



Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
380 Congress Street
Portland, Maine 04101

Greater Portland Landmarks Comment for Planning Board public hearing Feb. 24, 2015

As the board considers the zoning recommendation, Greater Portland Landmarks continues to believe that the City would be better served by completing the historic review and designation of the complex in tandem with the zoning. Any zoning change or presentation of a potential plan for the site should not prejudice or limit historic preservation board consideration of the potential for historic designation.

For this reason, we suggest that if the Planning Board endorses the zoning change, that it add a condition that calls for a process to work out any potential differences between the zoning and the historic preservation board recommendations regarding a historic district. This process should occur prior to City Council consideration of both zoning and a potential district.

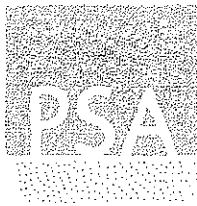
The City's historic preservation ordinance requires very strict time frames for consideration of potential historic designation, which we believe will not unduly delay matters. The Planning Board itself could then deliberate on any changes needed and whatever goes to the Council would have the full vetting of both the Historic Preservation Board and the Planning Board.

We see advantages in the parallel consideration of zoning and historic preservation: to avoid any zoning language that prejudices the historic preservation review, to work out any differences in parallel and in advance of council deliberation, and to provide clear direction to the developers.

Regarding heights, the overall scale of development on the site should be respectful of the existing views from the harbor of the complex and of the 19th century Munjoy Hill neighborhood as well as views of and from the National Historic Landmark Portland Observatory. There should be site permeability that fosters the connection with nearby historic districts and neighborhoods and the waterfront.

We would like to make it clear that Greater Portland Landmarks is not opposed to development of this site. In fact we are optimistic about the potential for redevelopment and adaptive reuse of the Portland Company site as a signature project which will bring new vitality to the eastern waterfront. The 10 acre site has room for both the historic complex and new architecture that is compatible with and enhances one of the most distinctive contexts in our city. We believe that the best outcome would be to design the site in a manner that retains the integrity and character of the industrial complex while bringing new and creative uses to these historic buildings. This approach would brand the development as one truly unique to Portland and to Maine by making the history of the Portland Company live into the future as a significant part of a contemporary reuse of this waterfront site.

Hilary Bassett, Executive Director, Greater Portland Landmarks



24 February 2015

To: Members of the Portland Planning Board
RE: India Street Sustainable Neighborhood Plan:
Critical Action 8: Adopt a Form-based Code

Dear Members of the Board:

The PSA is cognizant of the great effort by staff and others in this production ----- but the PSA is strongly opposed to the current proposal before the Board. We plan to respond in more detail later, but have some initial comments. The specifications of the proposed FBC for the India Street District goes way beyond a simple set of common guidelines to prescribe a very high level of specificity and visual appearance; it represents a virtual 'taking' of the building facades from their owners. Instead of the natural evolution of this urban neighborhood that is represented by diversity, vitality, and authenticity, we will be forcing a 'cookie-cutter' approach upon its property owners and residents that is stuck in time, neither honoring our existing historic structures, nor looking to the future, and above all turning its back to Portland's proud architectural heritage.

The PSA is one-hundred percent behind the idea of creating a pedestrian friendly mixed use urban neighborhood and believes that a simple set of common sense guidelines can do that. This proposal is neither simple nor commonsensical.

Respectfully,
The Portland Society for Architecture

Portland Society for Architecture
1000 Commercial Street, Suite 200
Portland, Oregon 97204
Phone: 503.228.1111
Fax: 503.228.1112
Website: www.portlandsocietyforarchitecture.org

Portland Society for Architecture
1000 Commercial Street, Suite 200
Portland, Oregon 97204
Phone: 503.228.1111
Fax: 503.228.1112
Website: www.portlandsocietyforarchitecture.org

Portland Society for Architecture
1000 Commercial Street, Suite 200
Portland, Oregon 97204
Phone: 503.228.1111
Fax: 503.228.1112
Website: www.portlandsocietyforarchitecture.org

CHESTER & VESTAL

A PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

107 Congress Street, Portland, Maine 04101

Telephone (207) 772-7426 Fax (207) 761-5822

EDWIN P. CHESTER
BARBARA A. VESTAL
MICHAEL P. DIXON

chester@chesterandvestal.com
vestal@chesterandvestal.com
dixon@chesterandvestal.com

February 24, 2015

HAND DELIVERED

Chair O'Brien and Members of the Planning Board
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Portland Company Complex

Dear Chair O'Brien and Members of the Planning Board:

It is true that we have spoken with the applicant since the last workshop. But we did not resolve the matter. I was not heartened by the modest accommodations offered. And at the outset of the conversation, I stated that I reserved the right to advocate for heights to be measured from flood plain. Because if that happens, the issues of bars and setbacks and vistas and site permeability all go away.

So this morning I spent two hours going through old Planning Board files to resolve whether height is to be measured from flood plain or from average grade. I found unquestionable evidence that height on the Portland Company site is to be measured from flood plain. This is a clear, quantitative standard in the Eastern Waterfront Building Height Study, which is part of the Waterfront Master Plan.

That means that how to measure height on the Portland Company site is not a policy question. It is not a judgment call for the Planning Board. It is a quantitative standard in the master plan which the City Council cannot lawfully ignore. Your recommendation to the City Council should be consistent with that standard.

So what did I find?

Exhibit 1: Draft Report, August 25, 2004. Red buildings. Page 5 - Findings. Height: Upper Fore shadow: 8 floors. It says those heights are mapped on Illustration 32. Turn to it. See written in on the draft: "Max. 8 floors above floodplain." Also written in by hand 5 "from flood plain" on two other areas east of Mountfort Street.

Exhibit 2: The next event was a neighborhood meeting on September 7, 2004 on Munjoy Hill. This is an excerpt from a 9/28/04 City Council report. It notes that a clear and large majority of the citizens were concerned with the scale of development. As a result, staff revisited the conclusions of the Height Study and reduced maximum heights to reflect public concern. It

refers to Attachment 7 where heights have been reduced. Now on the Portland Company site, it shows the shadow area reduced from 8 stories to 5-6, and similar reductions on other parts. Note printed in 3 places on the Portland Company site "from flood plain."

Exhibit 3: Not dated, but prepared by the consultant, illustrates a reduced buildout, showing 8 stories reduced to 6 stories.

Exhibit 4: Illustration 33: Height Map & Building Envelopes. Dated November 1, 2004. See note #2: "The height of building and tower masses east of Mountfort Street or its extension shall be measured from 2' above the flood plain elevation for the site based on the national geodetic vertical datum." This includes the Portland Company site.

Exhibit 5: Memo from Bill Needelman to City Council dated November 19, 2004, with 4 attachments. I have only copied 2.

Attachment 1 is the existing and proposed sections, showing the Portland Company buildings barely breaking the plain of Fore Street. This is described as an illustration of the Planning Board recommendation.

Attachment 4 is a working document. It is described as showing the amended building heights forwarded by Councilor Gorham at the previous Council meeting. The area is getting narrowed down to smaller B-6. See a similar note: "#4: For buildings located east of Mountfort Street, building heights shall be measured from 2 feet above flood plane, not from average grade."

Exhibit 6: This is a copy of what was actually adopted as the B-6 zone on December 8, 2004. The wording of note 4 changed only slightly. It states: "For buildings located east of Mountfort Street (extension) building heights shall be measured from feet above flood plain, not from average grade."

From the August 25th draft through to the December 8, 2004 adoption, it was clear and unchanged. Heights east of Mountfort Street extension are to be measured from flood plain. While B-6 only includes one building envelope east of Mountfort, that standard clearly applies across the entire study area, including the Portland Company site.

It is also worth noting, in the Findings section on Heights of the 8/25/2004 draft report (Exhibit 1), it states: "Areas of 1-2 stories are possible along the stretch of Fore Street frontage between Atlantic and Waterville, except for four view corridor openings where no building can front Fore Street or break the relative elevation at Fore Street."

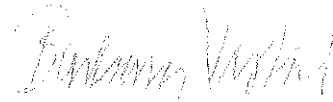
Compare that the same section in the December 2004 final report (Exhibit 7). Most of the findings only have minor tweaks – like substituting 5 to 6 for 8 in the upper Fore shadow. But, significantly, the entire statement about the possibility of 1-2 story buildings with frontage on

Chair O'Brien and Members of the Board
February 24, 2015
Page Three

Fore Street has been deleted from the report. With the reduced height, measured from flood plain, those buildings facing on Fore Street are no longer possible.

The proposed height overlay map must be amended so that it provides that all heights east of Mountfort Street or its extension shall be measured from flood plain, including the Portland Company site. The City Council cannot lawfully do otherwise and still be consistent with a quantitative standard in the master plan.

Very truly yours,



Barbara A. Vestal

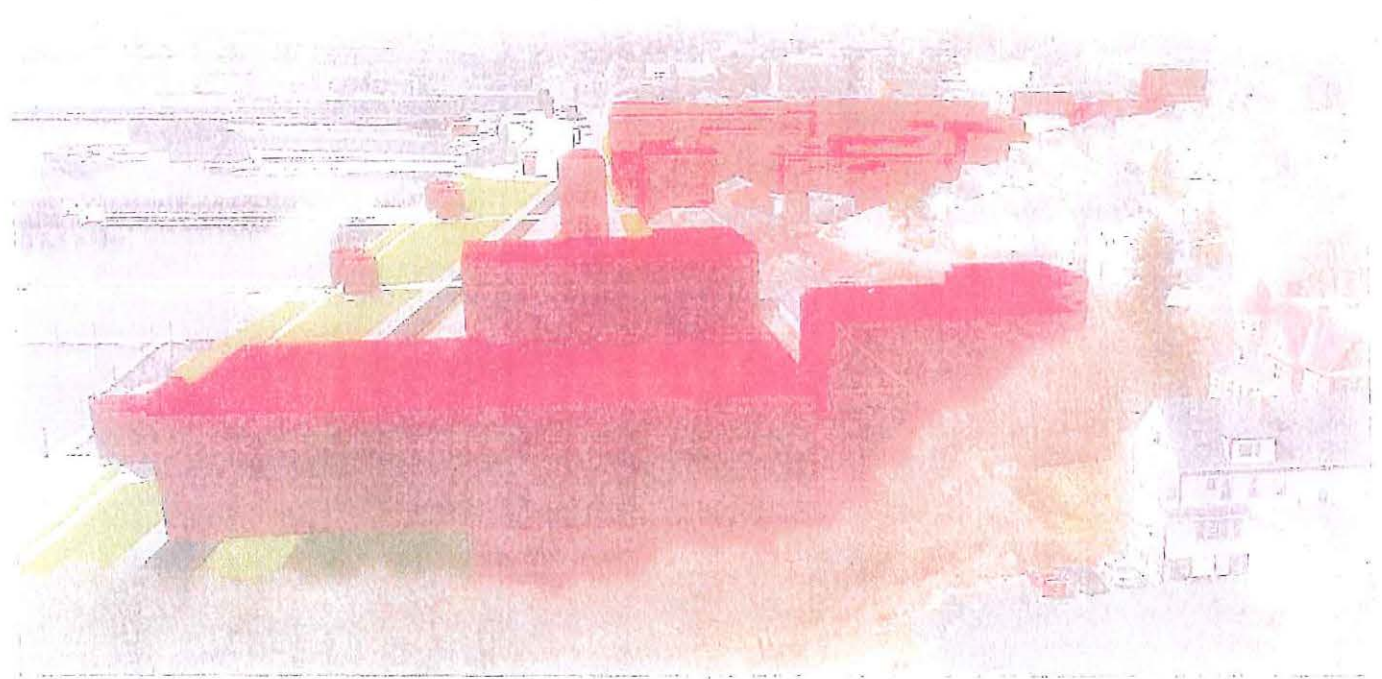
BAV/om

Attachments: Exhibits 1 - 7

EXHIBIT 1

Draft Report

Eastern Waterfront Building Height Study
Portland, Maine



25 August 2004

prepared by:

City of Portland Planning Office
MRLO, LLC

This concept build out is just one of hundreds of possible iterations meeting the guiding principles for the project. It was important to develop a build out scheme to visualize the area as redeveloped.

Illustrations 18-31 are all critical for visualizing the concept build out from different vantage points and contexts, but Illustrations 30 and 31, photo simulations are most telling and helpful for understanding how the redeveloped Eastern Waterfront will become a new and vibrant area while respecting the character and needs of adjacent neighborhoods.

FINDINGS

Height

Heights are defined in the study area using the following parameters (one floor or story is considered 11'):

- The overall fabric is three to five stories.
- The maximum heights for the three massing / height shadow zones noted in Illustration 9 and mapped on Illustration 32 are:

Middle / East Federal shadow:	7 – 8 floors
Shipyard shadow:	7 floors
Upper Fore shadow:	8 floors

- Areas of 1-2 stories are possible along the stretch of Fore Street frontage between Atlantic and Waterville, except for four view corridor openings where no building can front Fore Street or break the relative elevation at Fore Street. These three breaks in the possible 1-2 story Fore Street elevation are noted on the Illustration 32, Height Map.
- Any building mass or “tower” above the 5 story limit, where allowed, has a maximum 70’ width parallel with the shore and a maximum 140’ length perpendicular to the shore. 70’ wide towers must be separated by 140’.

- STUDY AREA (3 - 5 STORIES)
- KEY BUILDING ENVELOPES BY HEIGHT

NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. BUILDINGS ABOVE 5 FLOORS SHALL BE WIDER THAN 70' PARALLEL WITH THE WATERFRONT AND LONGER THAN 140' PERPENDICULAR WITH THE WATERFRONT.
2. 60' WIDE TOWER/BUILDING AREAS ARE A MINIMUM OF 140' WIDE, MEASURED PARALLEL WITH THE WATERFRONT.
3. BUILDING FOOTPRINTS ARE VIEW CORRIDORS WITH NO BUILDINGS ABOVE THE CORRESPONDING FORE STREET ELEVATION.



ILLUSTRATION 33: HEIGHT MAP/SLACK-CONFORMATION
Eastern Waterfront Building Height Study
Portland, Maine

EXHIBIT 2

Waterfront II

The Final Report of the Mayor's Waterfront Task Force on Economic Development: *Investing in our Working Waterfront*, October 2000, picked up where Waterfront I left off. The "Waterfront II" report included four economic related recommendations: (1) Encourage private and public waterfront investment, (2) Create a Waterfront-Centered economic development outreach program, (3) Support current use taxation, and (4) Support clean, working harbors.

The first recommendation included a specific provision that "recommends the development of waterfront parking garages not located on the water-side (with appropriate streetscape for retail or office uses) to supplement or replace the surface parking which serves the area. The intent is to free up precious waterfront land for productive use while relieving the parking problems for waterfront commerce."

The Waterfront II final report was adopted by the City Council as part of the Comprehensive Plan.

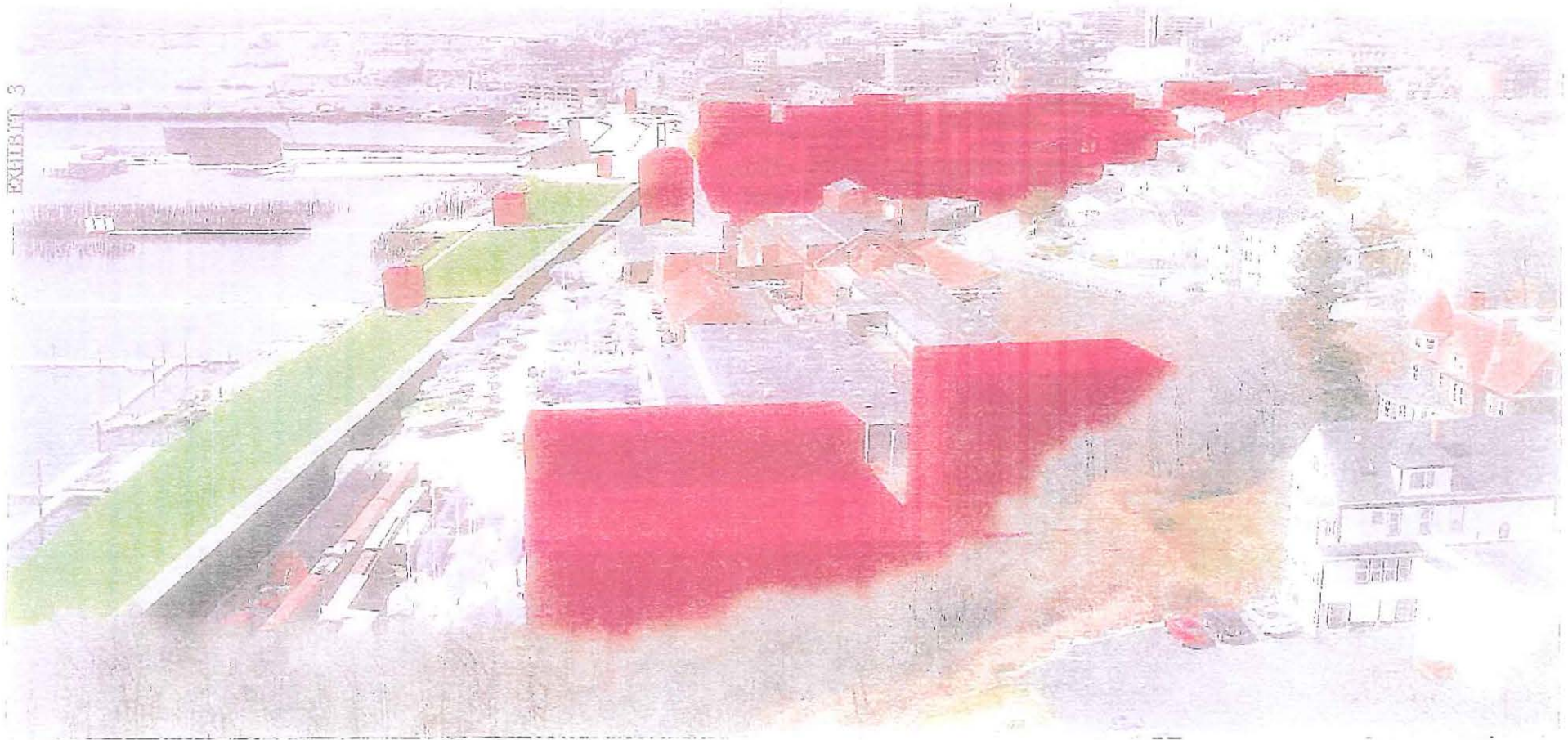
6. Neighborhood Meeting:

On September 7, 2004, the Planning Staff hosted a Neighborhood Meeting on Munjoy Hill to present the B-6 zone proposal and the Building Height Study. Please refer to the Neighborhood Meeting Material included in Appendix 2 of the Master Plan to understand the public's reaction to Building Height Study as presented at the neighborhood meeting.

In summary, very little discussion was generated by the uses proposed in the B-6 zone itself; but there was a clear and large majority of people concerned with the scale of development and the potential to impact public and private views. Given that compatible architecture is one of the signature principles of the Eastern Waterfront Master Plan, Staff took this criticism seriously and revisited the conclusions of the Height Study. The amended Master Plan document, including Appendix D - the Building Height Study, and the B-6 Building Height Overlay Map, Attachment 7, have been reduced to reflect public concern over view impacts.

7. Planning Board Recommendation:

As stated above, the CDC and Planning Board both recommended adoption of the Master Plan in 2002. With the Building Height study complete, the Planning Board recommends the formal adoption of the Master Plan into the



-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 75 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2" ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM. WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

3. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.

4. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.

5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

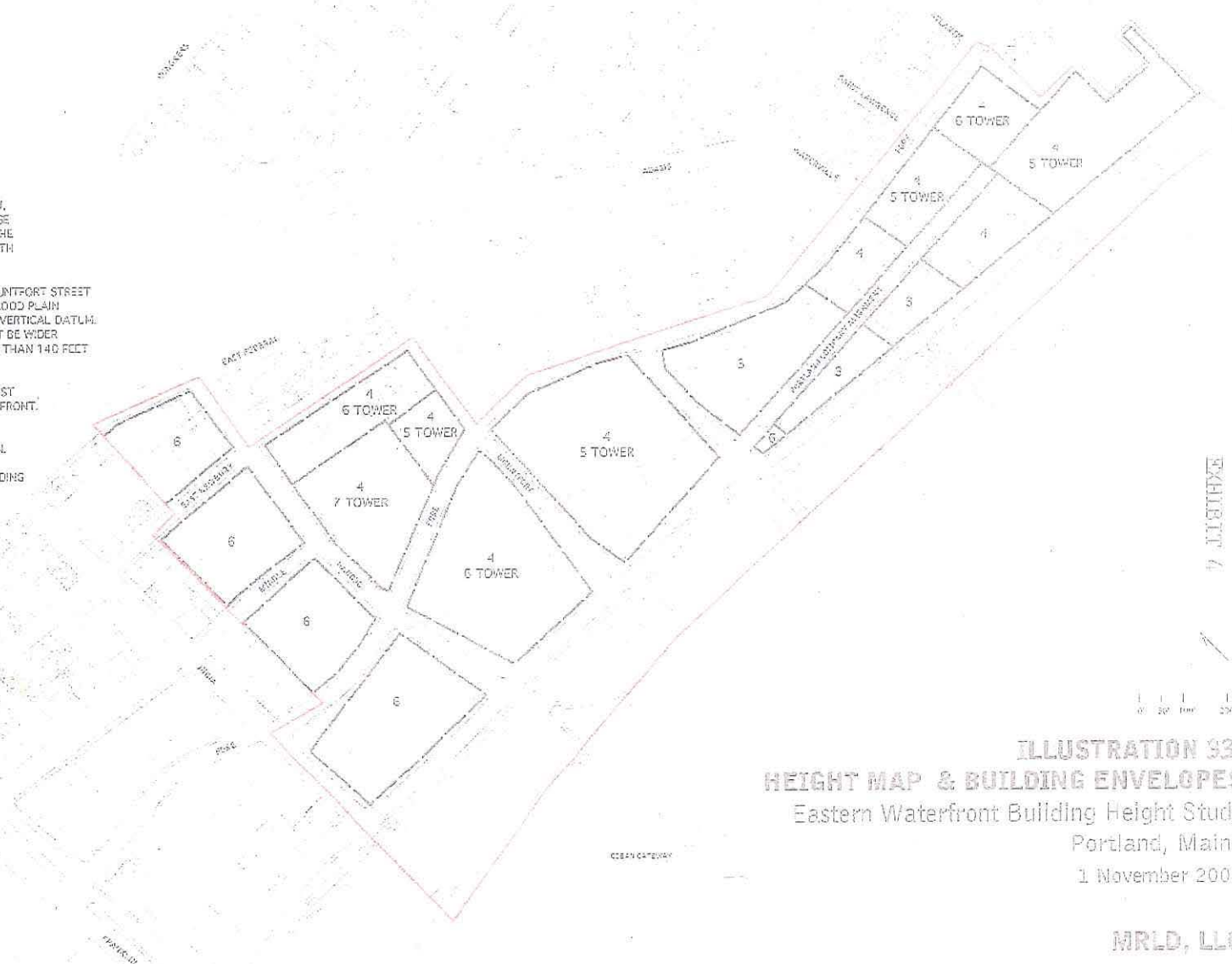


EXHIBIT 5

Memorandum
Department of Planning and Development
Planning Division



To: Mayor Smith and the Portland City Council

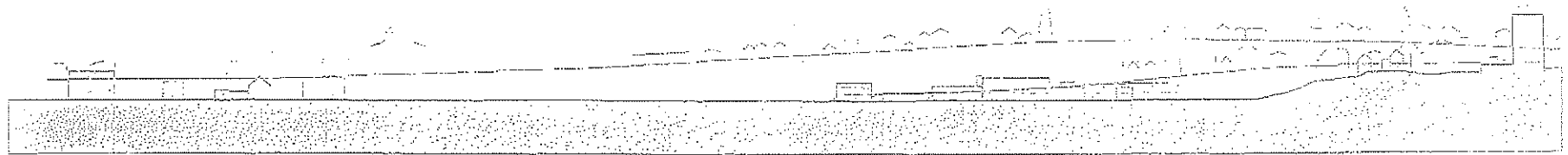
From: Bill Needelman, Senior Planner

Date: November 19, 2004

Re: Additional Material for the Eastern Waterfront Rezoning Workshop

As support for the November 22 workshop on Eastern Waterfront rezoning, Planning staff is providing the following additional material. This material will be helpful during both the on-site building height demonstration and the following workshop. Please find with the previously circulated material the following material:

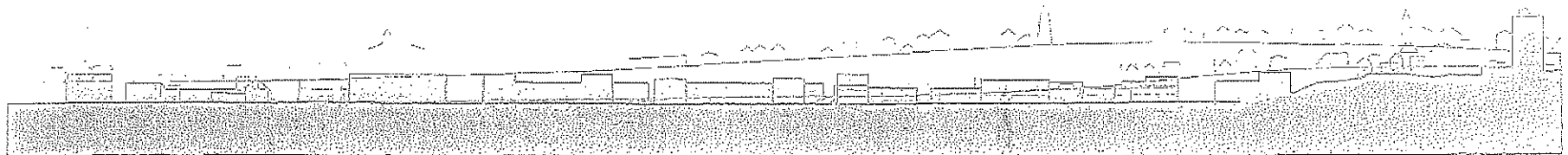
1. East / West Section: This drawing is taken from the Building Height Study and reflects the Planning Board's recommendation.
2. Potential Building Extensions: As suggested at the previous Council meeting, drawing 2 shows a maximum number of building extensions on those block where they are allowed. The higher number represents the highest point of the building. Again, these numbers reflect the current recommendation.
3. Aerial Photo: The attached aerial photo shows the approximate locations and heights of the City "lift trucks" that will be in place prior to the workshop on November 22. The trucks will be in position from 3:00 to 4:30pm.
4. Councilor Gorham Amendment: Drawing 4 shows the amended building heights forwarded by Councilor Gorham at the previous Council meeting.



SECTION E EXISTING - EAST / WEST (with Congress Street and Fore Street Elevations)

PROPOSED B6

400' 450' 500' 550' 600' 650' 700' 750' 800'



SECTION E PROPOSED - EAST / WEST (with Congress Street and Fore Street Elevations)

EASTERN WATERFRONT HEIGHT STUDY

Portland, Maine

13 September 2004

SRIS, LLC



①



Block Allowance



STUDY AREA (3 STORY MINIMUM)



KEY BUILDING ENVELOPES BY HEIGHT



NO BUILD ABOVE RELATIVE POSE STREET ELEVATION

General Notes:

1. For any block that is designated as a reaching area for towers, no building mass above four stories (48 feet above average grade) shall be wider than 70 feet parallel with the waterfront nor longer than 140 feet perpendicular with the waterfront.
2. Within each block, the 70 foot wide towers, as defined above, must be at least 140 feet apart, measured parallel with the waterfront.
3. No buildings shall be located outside of the key building envelope, "build-to" lines.
4. For buildings located east of Monument Street, building heights shall be measured from 2 feet above flood plans, not from average grade.

Proposed limits of the B-6 Zone

Note: Proposed Building Height Overlay Zone would only apply to the B-6 portion of the Eastern Waterfront.

AMENDED BY: Councilor Gort-hank

Proposed B-6: BUILDING HEIGHT OVERLAY MAP

Eastern Waterfront Building Height Study

Portland, Maine

13 September 2004

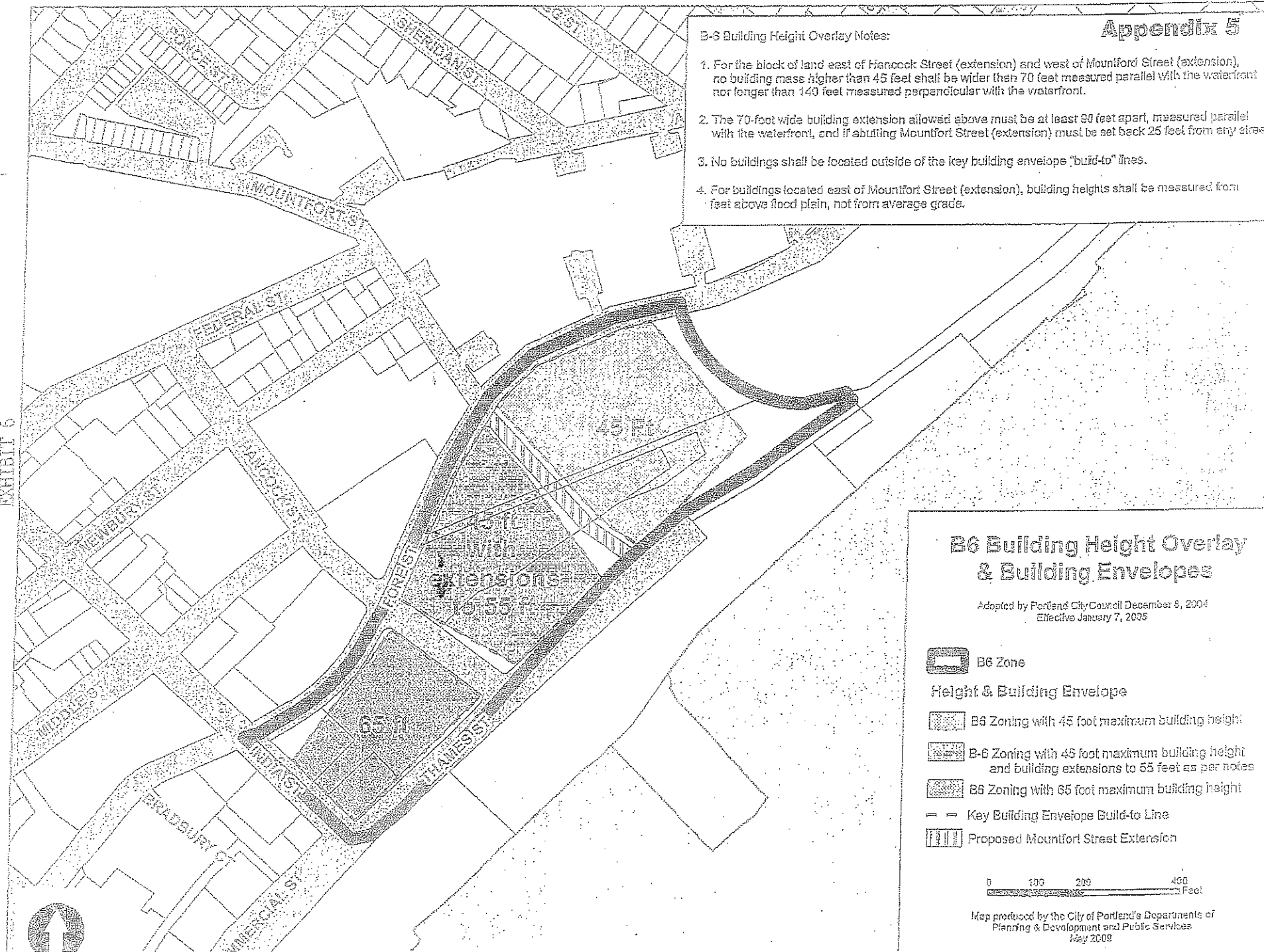
4

Appendix 5

B-6 Building Height Overlay Notes:

1. For the block of land east of Hancock Street (extension) and west of Mountford Street (extension), no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront.
2. The 70-foot wide building extension allowed above must be at least 80 feet apart, measured parallel with the waterfront, and if abutting Mountford Street (extension) must be set back 25 feet from any street.
3. No buildings shall be located outside of the key building envelope "build-to" lines.
4. For buildings located east of Mountford Street (extension), building heights shall be measured from feet above flood plain, not from average grade.

EXHIBIT 6



B6 Building Height Overlay & Building Envelopes

Adopted by Portland City Council December 8, 2004
Effective January 7, 2005



B6 Zone

Height & Building Envelope



B6 Zoning with 45 foot maximum building height



B-6 Zoning with 45 foot maximum building height and building extensions to 55 feet as per notes



B6 Zoning with 65 foot maximum building height



Key Building Envelope Build-to Line



Proposed Mountford Street Extension

0 100 200 400 Feet

Map produced by the City of Portland's Departments of
Planning & Development and Public Services
May 2009

The concept build out was a test of the conclusions drawn from earlier analysis. The analysis documents are just one of hundreds of possible iterations meeting the guiding principles for the project. It was important to develop a build out scheme to visualize the area as redeveloped.

When the draft build out images were shown to the public at a neighborhood meeting, the clear consensus from the participants was that the concept build out was too aggressive. Working with the City Planning Division staff, the Height Map and section drawing were reduced on a block-by-block basis to reflect public concern, while retaining consistency with the principles of this analysis and the broader principles of the Eastern Waterfront Master Plan.

The final illustrations provided herein, including section drawings, the height and building envelope map and photomontage images, reflect public input generated at the neighborhood meeting. These images are critical for visualizing the concept build out from different vantage points and contexts. The multiple perspectives are helpful for understanding how the redeveloped Eastern Waterfront will become a new and vibrant area while respecting the character and needs of adjacent neighborhoods. The final *Illustration 33, Height Map and Building Envelopes*, will furthermore become the foundation of a regulatory map use in the future rezoning of portions of the Eastern Waterfront.

The previous draft analysis documents that show higher buildings, including plans, sections, computer models and photo simulations, will be provided in the final report appendix to illustrate the full process of the study.

FINDINGS

Height

Heights are defined in the study area using the following parameters (one floor or story is considered 11'):

- The overall fabric is from of 3 to 4 floors. Areas allowing taller buildings are noted on Illustration 33.
- The maximum heights for the three massing / height shadow zones noted in Illustration 9 and mapped on Illustration 33 are:

Middle / East Federal shadow:	6 floors
Shipyard shadow:	7 floors
Upper Fore shadow:	5 to 6 floors

- No buildings can break the relative elevation at Fore Street at the four "floating zones" noted on Illustration 33. These floating zones are extensions of Munjoy Hill Street corridors and protect connectivity between public streets and the harbor as viewed over the Portland Company properties.
- Any building mass or "tower" above the 4 story limit, where allowed, has a maximum 70' width parallel with the shore and a maximum 140' length perpendicular to the shore. 70' wide towers must be separated by 140'. Please note that west of Hancock Street, the tower provision has not been applied.

View Corridors, Building Envelopes and Street Wall Development

Assuming certain street layouts, Illustration 32, Alignments / Open Space Map creates and protects views and establishes a range of streetscapes due to the interplay between the building walls and street alignments.

For this scenario to work, the engineering of the road alignments is critical for establishing the setbacks, which in turn allow for varying sidewalk widths and the preservation of views. As stated above, in translating Illustration 32 in to the regulatory Height Map and Building Envelopes map, the "splays" have been simplified to reflect current development proposals.

Recommendations Beyond Building Heights

Alleys

In addition to building heights and alignments, this report recommends a system of alleys modeled after Wharf Street and the area between the Portland Company complex and the "Map Room" tower. These alleyways are proposed as a secondary level of pedestrian and vehicular circulation. The conditions can range from an open alley with sky bridges to arcades with minimum height of two stories. One alley may vary, beginning with a covered arcade and three stories of building for a depth of 35 or 70 feet and then an open alley with skywalks.

Step backs

Step backs have not been specifically addressed as the maximum building height is seven stories and the "aerial splays" studied in the three dimensional model, specifically on Hancock Street may be too specific/restrictive for planning and market implementation. The varied street level experience is not impacted by the loss of step backs. The majority of view creation and preservation is maintained using building heights and setbacks/alignments. It is more important in the Eastern Waterfront to create defined and energized streets than focus on step back formulas.

2/24/2015

1 | Page



Maine Rail Transit Coalition
84 Middle St
Portland, Maine 04102
Telephone: 207-329-6732
Mailto: info@mainerailtransit.org
WWW.MaineRailTransit.Org

To: City of Portland Department of Planning & Development
From: Anthony J. Donovan, Maine Rail Transit Coalition (MRTC)
Date: February 24, 2015
Re: 58 Fore St. Zoning Map/Text Amendment Application Public meeting Comments

Sir/Madam:

The MRTC is a state-wide coalition of professionals with offices in Portland established for the purpose of expanding passenger rail service in the region. Our work is in public policy and planning initiatives to attract private investment that contribute to the walkability of community and reduce the reliance on automobiles for the economy and environmental benefits.

The background to our interest in the 58 Fore Street waterfront development, in addition to our residency and business interests here, was a 2013 study for expanding passenger rail on the railway corridor between Portland at the OceanGate cruise ship terminal and downtown Lewiston, Maine. We continue to advocate for that service and hope this development will not interfere with use of the State-owned railway abutting the site.

First and foremost we express our support for the development of this underutilized property referred to as the Portland Company. The proposed zoning map/text change to allow for the highest and best valued use of the property in accordance with the City Comprehensive Plan for an economically responsible development appears to be in the best interest of the City and waterfront.

Please consider;

1. The City of Portland Eastern Waterfront Master Plan (EWMP) was done through the committed efforts of a broad and diverse group of citizen volunteers, expert consultants and city staff. The Portland Company property should have been zoned to B-6 at the time of the adoption of the EWMP. The EWMP was adopted by the City Council and now the City should approve the rezoning that was established in that plan.
2. The 58 Fore Street plan, if allowed to proceed with this rezoning, consistent with the EWMP, will allow for a redevelopment that will contribute to Portland as a livable, walkable community destination, for the enjoyment and benefit of the entire city.

2/24/2015

2 | Page



3. The proposed extension of the B-6 height overlay, as well as the Design Guidelines for the Eastern Waterfront, is appropriate to development on Fore Street. The Portland Company development will give more people access to the waterfront as residents and visitors. It will provide the public with better views and vistas of the waterfront than is currently provided by the limited views along Fore Street sidewalks and for those who have the good fortune to have been able to afford homes on the opposite side of Fore Street.

Opponents to this application for a zone change, in addition to seeking to protect their views, claim it will lead to noise from bars and restaurants, festivals and fireworks, at the same time as they raise issues about protecting a working waterfront. I suggest the working waterfront, with its welding and banging and 24 hour industrial activity has long gone from this section of the city.

More issues remain, but will be discussed in different forums, such as the controversial topic of inclusionary housing, the appropriateness of any historic district designation and the restoration of a passenger rail service to alleviate congestion and pollution in the City.

The process for assuring a good development is in place and can best be achieved by allowing the appropriate zoning to B-6 and moving forward with the developers as they establish a master plan appropriate to this unique waterfront site. In conclusion, we ask that the Planning Board allow this zone change so that we can get down to the real good work of this project.

Sincerely,

Anthony J. Donovan

Anthony J. Donovan, Founding Member
Maine Rail Transit Coalition

Cc. Portland City Council

Lannie Dobson - Re: Fwd: support for 58 Fore Street rezoning application

From: Lannie Dobson
To: Grimando, Christine
Subject: Re: Fwd: support for 58 Fore Street rezoning application

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> "Daren Hebold, CCIM" <dhebold@luxrealty.com> 2/23/2015 11:43 AM >>>
Good afternoon Jeff, Tuck and Beth:

While I cannot attend the planning board public hearing tomorrow evening (Tues 24th), I wanted to write in with my endorsement for CPB2's zoning change application. Would you please distribute this message with Planning Staff and Council as you deem appropriate?

BACKGROUND

I attended an informative on-site presentation at the Portland Company earlier this week. CPB2 principals Casey and Kevin led us through a discussion of their very methodical and thoughtful approach to planning this important large waterfront parcel consistent with the established EWMP. Having been a commercial real estate broker in Portland since 2004 and Portland-business owner, I have seen countless proposed projects throughout Southern Maine. I have a keen sense of a quality, well-planned project and know one when I see it.

MY ENDORSEMENT

Accordingly, it is my perception that CPB2's request to replace 58 Fore Street's current antiquated zoning designation with a combination of B-6 and EWPZ is both appropriate and desirable. This request balances the developer's interest of producing a vibrant mixed-use, economically viable project, while still preserving the City's usual planning controls for this landmark site. Moreover I believe that having an approx 35' height variance along Fore Street is acceptable, given that the developer will be going to great lengths to preserve the existing view corridors and pedestrian access from the various East End tributary streets spilling down to this oceanfront parcel.

Thank you for hearing my opinion regarding this development.

With best regards, Daren Hebold

Daren Hebold, CCIM, President
LUX Realty Group | Maine to New
York
Investment and Lodging Real Estate
75 Market Street

Portland, ME 04101

(207) 329-5092 direct

[LODGING](#) | [INVESTMENT](#) | [PRIVATE EQUITY](#)

February 23, 2015
Chair O'Brien and Members of the Planning Board
c/o Christine Grimando
Planning Department
City of Portland
389 Congress Street
Portland, Maine 04101

Dear Chair O'Brien and Members of the Planning Board,

I cannot attend the Planning Board public meeting on February 24th as I am out of town. In lieu of making a public comment, I am sending these comments for your consideration.

Mentioned often at the planning board meetings regarding this zoning change application are two unwritten and unofficial, but commonly used ways in Portland to measure building height limits: the average grade of the four corners of a site, and the average of regular intervals around the perimeter of a building.

But there's a third way and, unlike the other two, it's one that is actually enshrined in the B-6 land use code: measurement above the floodplain.

1. Since the B-6 zone was envisioned to eventually cover the Portland Company site, the B-6 Building Height Overlay map mandates must also apply to the site.

It has been declared at the planning board meetings by the applicant and Planning Staff that the B-6 zone, when it was enacted, was intended to eventually apply to the Portland Company site. If so, then the B6 Building Height Overlay & Building Envelopes map (Exhibit 1) must have been created with that intention in mind. That map *explicitly and unambiguously* states that "For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade".

It is plain to see that the floodplain measurement is called for here because of the topography of the area and how it changes along Fore Street. And this topographical change becomes even more pronounced further east. So if that measurement is appropriate for the current B-6 zone, it is even more appropriate for the Portland Company site

The B-6 Overlay map was adopted by the City Council concurrent with the Eastern Waterfront Master Plan and the Building Height Study in 2004. It is specifically referred to in the City Land Use Code. *It cannot be clearer or more explicit, and it cannot be ignored.* The Portland Company site is located east of Mountfort Street and *must* follow the same regulations as the rest of the B-6 zone.

2. A revised and more current version of Illustration 33 from the Building Height Study specifically states, yet again, that building heights east of Mountfort Street, including the Portland Company site, shall be based on the flood plain.

The revised and updated version of Illustration 33 (Exhibit 2) is dated two months later than the version that is included in the Eastern Waterfront Building Height Study. It is also dated one month earlier than the Study was adopted by the city, indicating some clarifications to the Study had been discussed and anticipated.

This document also unambiguously states that building heights east of Mountfort Street shall be based on a measurement above the floodplain. While not included with the Study (which for

some reason is titled "Draft Final Report"), it clearly shows intent to align measurement policies with the B6 Building Height Overlay map and produce a floodplain base for determining building heights over the entire area east of Mountfort Street, including the Portland Company site.

3. The Eastern Waterfront Building Height Study not only implies a floodplain measurement, but depicts it as well.

When the eastern waterfront plan was being developed, a heavily-attended public meeting on September 7, 2004 on Munjoy Hill generated a great deal of negative comment concerning planned building heights along Fore Street. This is mentioned in both the Eastern Waterfront Master Plan and the Building Height Study. The city's consultant and author of the Study, Mitchell Rasor, writes that he and the City staff went back to the drawing board to reflect this public concern. The final report envisions reduced building heights:

"The final illustrations provided herein, **including section drawings**, the height and building envelope map and photomontage images, reflect public input generated at the public meeting." (emphasis added)

I spoke with Mr. Rasor recently, who told me that "Section E" as depicted in his report was a section through Fore Street. This "Section E" drawing (Exhibit 3), presented on the last page of the Study, shows both current and proposed build-outs, and clearly depicts potential building masses at the eastern end of Fore Street that are much lower and less aggressive than the applicant's submissions that use an average grade measurement. Curiously, it strongly resembles both the applicant's drawings and the study done by Whitten Architects of what floodplain measurements would produce in building heights. Buildings could still break the grade at Fore Street, but would not be as aggressively tall as the applicant desires.

Mr. Rasor also told me that, since the Study was done more than ten years ago, he could not recall if any one particular measurement methodology was used but it is apparent from the above that a *floodplain measurement was anticipated for this area by the Building Height Study*.

In its final paragraph, the Building Height Study recommends "moderately scaled development, with taller buildings taking advantage of topography and existing view shadows". It encourages utilizing the extreme grade changes of the site to nestle the buildings into the "shadows" of the site, producing maximum-height buildings while still respecting the scale of the neighborhood. *This will only be achieved by utilizing a floodplain measurement versus an average grade measurement.*

4. This is a unique site and demands a more thoughtful approach than a one-size-fits-all average grade measurement.

With regard to topography, this site is very different than any other in Portland. It has the bulk of its footprint roughly at the floodplain. And it has extreme grade changes in very short distances. To use the average grade methodologies for building heights here is inappropriate and does not follow the B-6 height overlay rules.

The Building Height Study concludes that "while building height maximums are needed, maximums by themselves could result in overly monolithic forms that are out of character with Portland's varied and diverse development history."

It's important to note that using floodplain measurement along with building height maximums will still result in buildings that will break the grade above Fore Street. This is desirable because it will help integrate the development into the community. But it will also help prevent the unforeseen consequence of building masses that are out of scale for the neighborhood and out of character for Portland.

There is an effort by the applicant, city staff and others to discount these precedents and arguments for floodplain measurement. Their efforts to produce tall, maximum-height buildings using average grade measurements could result in structures that not only overshadow Fore Street, but may also result in unfortunate massing along the street.

The effort to produce taller, more massive structures may be as much ego and principle-driven as it is dollar-driven, instead of a desire to produce an appropriate and context-sensitive development.

But why? Creative engineering, architecture and thoughtful planning along with the ability to build 65 foot tall buildings on the site based on floodplain can result in a truly impressive, striking and forward-thinking development that will produce great value to the City, its residents and the developers; a development that everyone can be proud of and that will have the strong backing and support of the community.

Reading through the various documents and studies that apply to the Eastern Waterfront, it is apparent that a floodplain measurement for determining building heights in the B-6 area has been anticipated and is *appropriate, reasonable and follows city policies and recommendations*. Please take this into consideration as you discuss this zoning change.

Sincerely,

Peter Macomber
St Lawrence Street

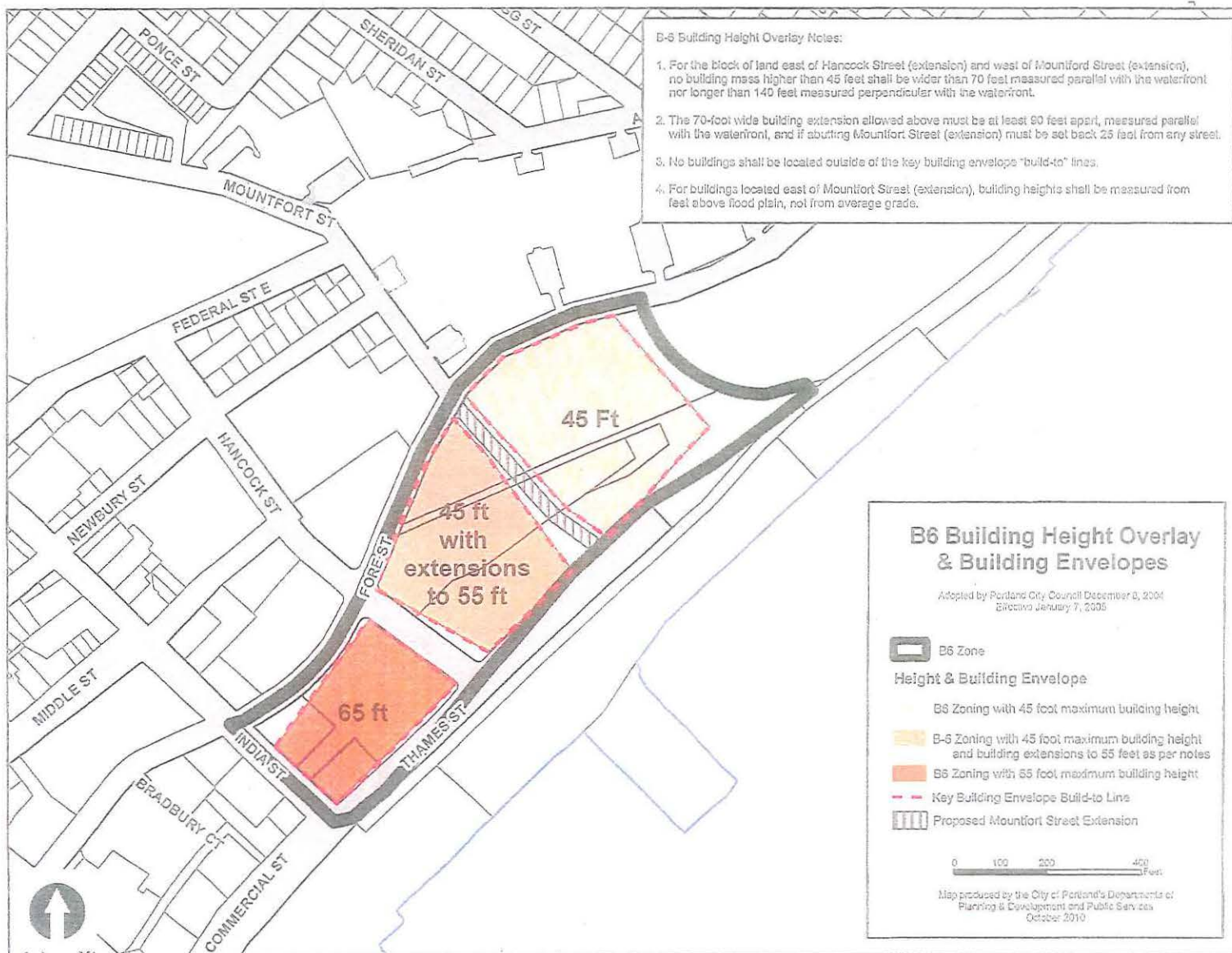
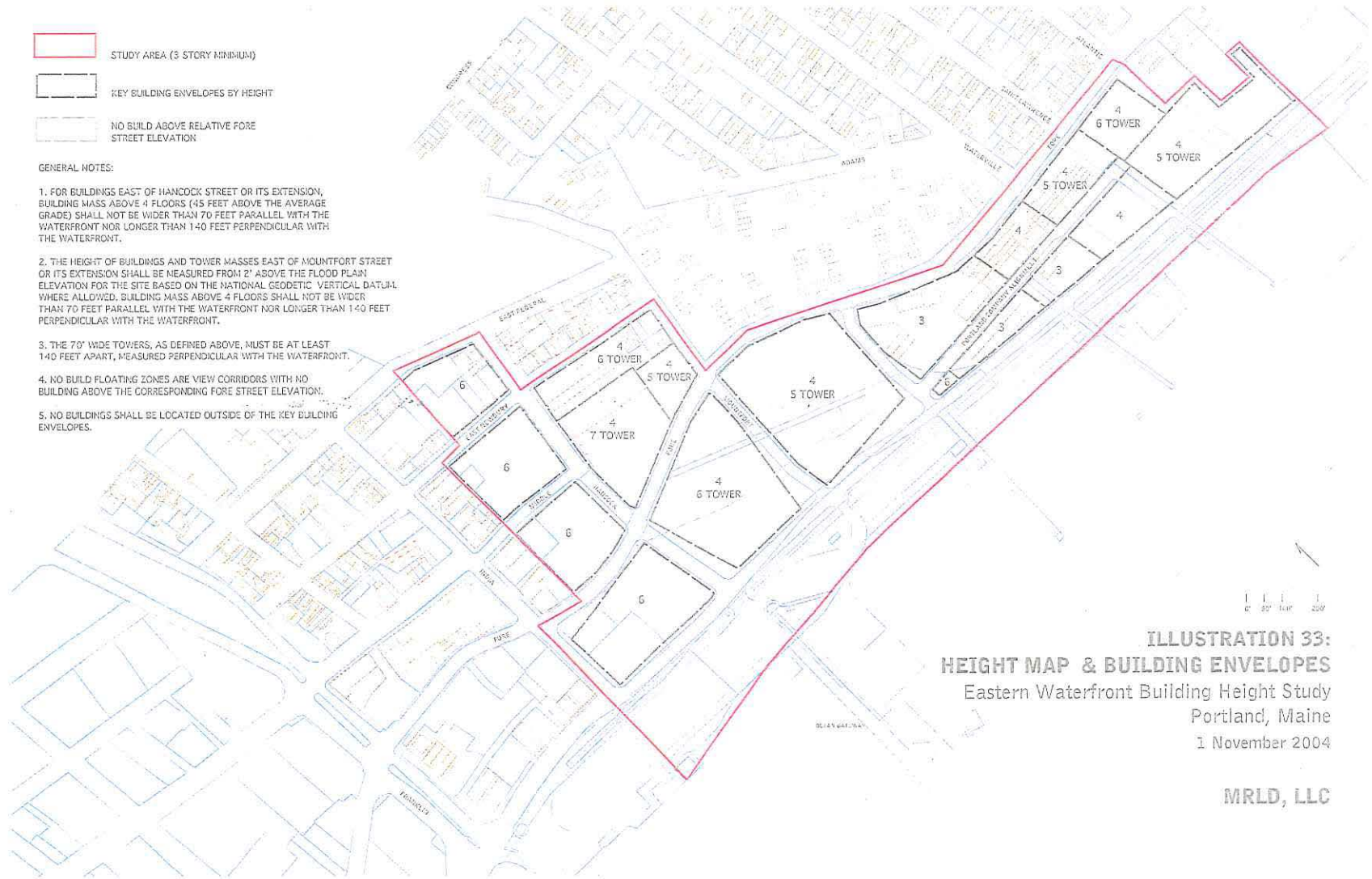


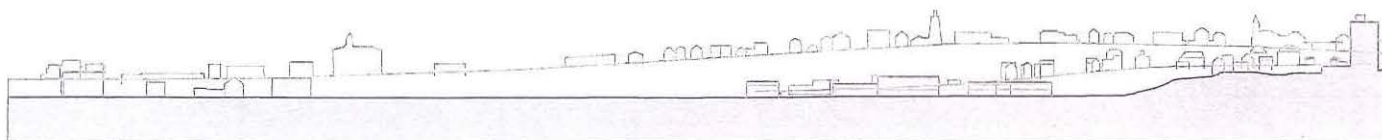
EXHIBIT 2

-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

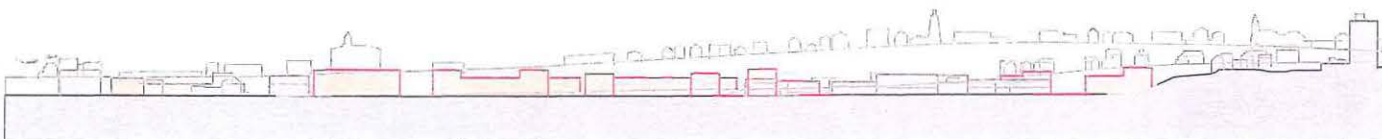
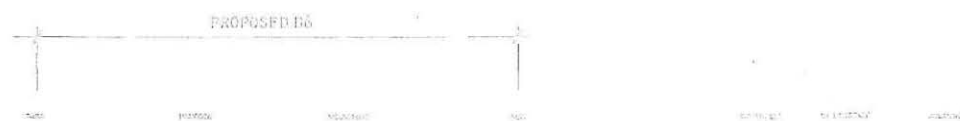
GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (15 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2" ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM. WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
3. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.
4. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.
5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.





SECTION E EXISTING - EAST / WEST (with Congress Street and Fore Street Elevations)



SECTION E PROPOSED - EAST / WEST (with Congress Street and Fore Street Elevations)

EASTERN WATERFRONT HEIGHT STUDY

Portland, Maine

September 2004

MRLD, LLC



Lannie Dobson - Re: Fwd: Portland Company complex rezoning concerns

From: Lannie Dobson
To: Grimando, Christine
Subject: Re: Fwd: Portland Company complex rezoning concerns

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> Steven McGee <stevemcgee@rcn.com> 2/22/2015 5:30 PM >>>
Hello Christine,

We are writing with comments and concerns for the City of Portland Planning Board to consider at the Tuesday, February 24th meeting regarding the zoning map amendment related to the Portland Company complex.

First we want to state that, as Fore Street residents, we are very much in favor of development of the Portland Company Complex, but that development must be responsible and considerate of the surrounding neighborhood and impacts to residents and visitors.

It is our understanding that plans for the new complex include restaurants, bars and brew pubs in addition to residential units, retail and exhibition space. We have concerns with all proposed uses having entrances directly on Fore Street rather than through the main entrance to the complex. This would create additional parking issues on Fore Street as well as safety issues for both vehicular and pedestrian traffic. Fore Street is heavily used by pedestrians, residents and many tourists making their way to and from the Eastern Prom. Parking is already at a premium for the many residents and guests on Fore Street. The increase in vehicular and pedestrian traffic would add more pressure to an already difficult situation.

Not only is the increase in traffic a concern but the noise and light pollution from these proposed establishments would degrade the existing neighborhood. There needs to be a balance between the proposed uses of the Portland Company Complex and the immediate and surrounding Munjoy Hill community. Other dining and drinking establishments on Munjoy Hill must stop serving at 10:00 PM. Although the B6 zoning proposed for the Portland Company Complex allows service until 11:00 we would like to see serving hours restricted to 10:00 PM to be consistent with the rest of Munjoy Hill and to preserve the character of the neighborhood.

Thank you,

Steve & Michelle McGee
25 Fore Street #1
Portland, ME 04101

From: Rob Whitten <rob@whittenarchitects.com>
To: Christine Grimando <CDG@portlandmaine.gov>
CC: Ned Chester & Barbara Vestal <vestal@chesterandvestal.com>
Date: 3/4/2015 2:06 PM
Subject: Re: Planning Board Presentation
Attachments: Mail Attachment.png; SOP-150304-PPB150224.pdf

Hi Christine,

Attached please find a pdf text of the oral, 3 minute presentation made to the City of Portland Planning Board on 02/24/2015.

Please include it with the pdf visuals that were provided to the Planning Board members and members of the Planning Department.

It explains the images and their sequence; and it will help the City Council members visualize the impact of the proposed B-6 zone on the Portland Company site at 58 Fore Street.

Thank you.

My best, Rob.

Rob Whitten, AIA

Whitten Architects
37 Silver Street
Portland, Maine 04101
P: 207.774.0111 x101 <tel:207-774-0111>
www.whittenarchitects.com <http://www.whittenarchitects.com/>

> On Mar 4, 2015, at 8:52 AM, Christine Grimando <CDG@portlandmaine.gov> wrote:

>

> Hi Rob,

>

> If you'd like to send a written statement, please feel free to forward it along. Please bring any copies you would like to distribute to the Council.

>

> Christine

>

>

>

>

> Christine Grimando, AICP

> Senior Planner

> Planning & Urban Development Department

> 389 Congress Street

> Portland, Maine 04101

> edg@portlandmaine.gov <mailto:edg@portlandmaine.gov>

> Ph: (207) 874-8608

> >>> Rob Whitten <rob@whittenarchitects.com> 3/3/2015 5:01 PM >>>

> Hi Christine,

>

> Thank you for your note.

>

> I would like the materials regarding the proposed zoning change to 58 Fore Street that were handed out and distributed to the City of Portland Planning Board and members of the Planning Committee included in the digital record that goes to the City Council.

>

> Please find two attachments as distributed on 02/24/2015:

>

> Attachment #1: Primary package for 3 minute presentation as a Portland resident in the public portion of the Planning Board meeting.

>

> Attachment #2: Supplemental package that supports and expands on the 3 minute presentation.

>

> I'd like to prepare a written statement of the 3 minute presentation that references to the images. Do let me know if this is appropriate.

>

> Sincerely, Rob.

>

>

> Rob Whitten, AIA

>
> Whitten Architects
> 37 Silver Street
> Portland, Maine 04101
> P: 207.774.0111 x101 <tel:207-774-0111>
> www.whittenarchitects.com <http://www.whittenarchitects.com/>

>
>
>
>
>

>> On Mar 3, 2015, at 3:55 PM, Christine Grimando <CDG@portlandmaine.gov <mailto:CDG@portlandmaine.gov>> wrote:

>>

>> Rob,

>>

>> Do you wish the large color packet you passed out at the February 24th Planning Board Public Hearing to be included in the digital record that gets forwarded to the Council? If so, could you please send a digital copy of the submission, and I'll make sure it gets included going forward.

>>

>> Best,

>>

>> Christine

>>

>>

>>

>>

>>

>>

>>

>> Christine Grimando, AICP

>> Senior Planner

>> Planning & Urban Development Department

>> 389 Congress Street

>> Portland, Maine 04101

>> edg@portlandmaine.gov <mailto:edg@portlandmaine.gov>

>> Ph: (207) 874-8608

>>

>> Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested. --

>

Presentation of 3D Images to the Portland Planning Board

02/24/2015

Written version of 3 minute comments by resident Rob Whitten

Mr. Chairman and Members of the Portland Planning Board, good evening.

My name is Rob Whitten; my wife and I have lived at 23 St. Lawrence Street on Munjoy Hill since 1976.

I'm an architect and I'm assisting the Soul of Portland with the creation of a 3D graphic diagram that helps explain the possible build-out and development of the Portland Company site at 58 Fore Street as a result of the proposed B-6 zoning request by CPB2.

Our 3D presentation was initially based on Google Earth contour information. Tonight we've provided you with print packages of revised and updated information based on contours from the ALTA survey provided by the developer and based on recent modifications to height and use put forward by CPB2. All information is based on the Eastern Waterfront Height Proposals prepared by the City in October 2004.

Given a three minute time limit, I'll just address the graphic information shown in the first packet of images.

1. The first image shows the 2004 Master Plan Heights as evaluated on a 35' x 35' grid that runs parallel to Fore Street and across the entire 10 acre site. The grid works within a residential scale and is consistent with the scale of the surrounding Munjoy Hill residential neighborhood where a typical lot is 50' x 100'.
2. The second image is a 3D aerial view of the site from the West showing the maximum limits of height and 100% lot coverage as permitted in the proposed B-6 zone.
3. The third image is the cross-section cut of Fore Street looking toward the Portland harbor from Fore Street:
 - bold red line is the grade of Fore Street.
 - the colors represent the maximum building heights --not to exceed 35' above Fore Street.
 - the openings are View Corridors as described in the 2004 Height Proposal.
 - the dark bold lines below the Fore Street red line indicate the median or average grade of the 35' grid for the calculations of the building heights.
 - the blue line is the Flood Plain elevation height of the Portland Company site. The current WSU zoning of the site measures all heights from the Flood Plain.

Presentation of 3D Images to the Portland Planning Board
02/24/2015 (cont.)

How does the proposed B-6 zoning change affect Portland as seen from Fore Street?

4. The fourth image is a street level, pedestrian point of view where Waterville Street meets Fore Street. It shows the maximum possible build out height with 100% lot coverage of the proposed B-6 zone as measured from the proposed average, median grade on a 35' x 35' grid.
5. The fifth image shows the same location, where Waterville meets Fore Street, with B-6 zoning as measured from the Flood Plain.
6. The sixth image shows possible building forms using the 35' x 35' grid, the B-6 zoning, measuring from average, median grade.

How does the proposed B-6 zoning change affect Portland as seen from the waterfront?

7. The seventh image shows the beginning of the Portland Company from Thames Street from a pedestrian point of view looking towards the Eastern Prom Trail. You are seeing the maximum height and 100% lot coverage of the proposed B-6 zoning.
8. The eighth image is processing down the Eastern Prom Trail showing the maximum height and 100% lot coverage of the proposed B-6 zoning. Please note that there is no appreciable difference if you measure from average, median grade of the Flood Plain.
9. The ninth image shows further along the Eastern Prom Trail with the proposed B-6 zoning height of 45' with the allowed additional 10' height extension.

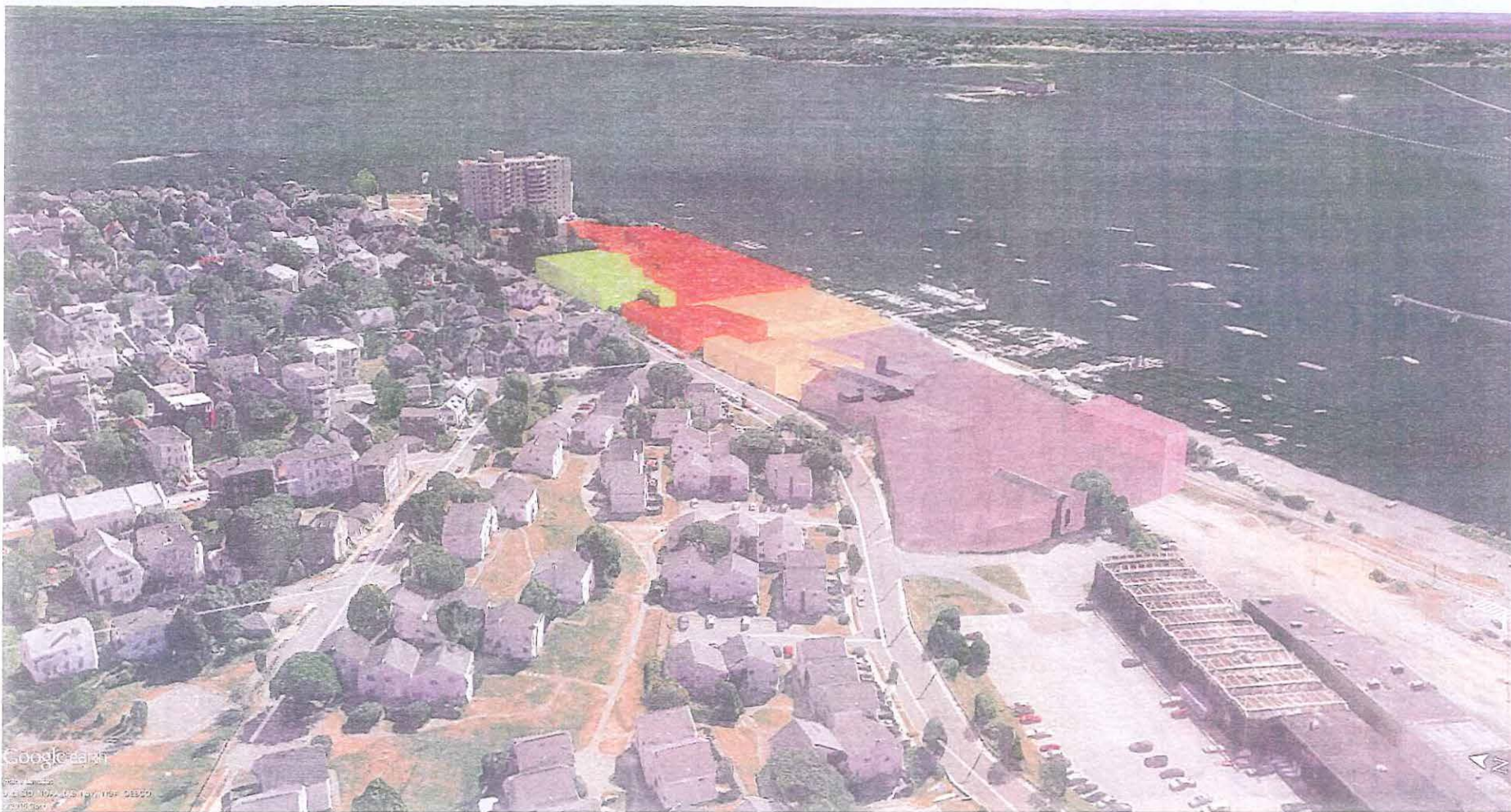
The additional images in the second packet show aerial views of the Portland Company from the north, east, and south as well as street-scapes from other pedestrian level points of view.

Thank you for your time and your consideration.



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

AERIAL PLAN OF PORTLAND COMPANY SITE
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

VIEW OF PORTLAND COMPANY SITE FROM WEST
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

PARTIAL SECTION THROUGH FORE STREET LOOKING EAST
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



Google Earth

From: Portland
Date: Dec 10/11
Map: 10/11, 10/12, 10/13
© 2013 Google



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & WATERVILLE STREET
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



Google Earth

SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & WATERVILLE STREET
LIMITS OF PROPOSED B6 RE-ZONING FROM FLOOD PLAIN
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



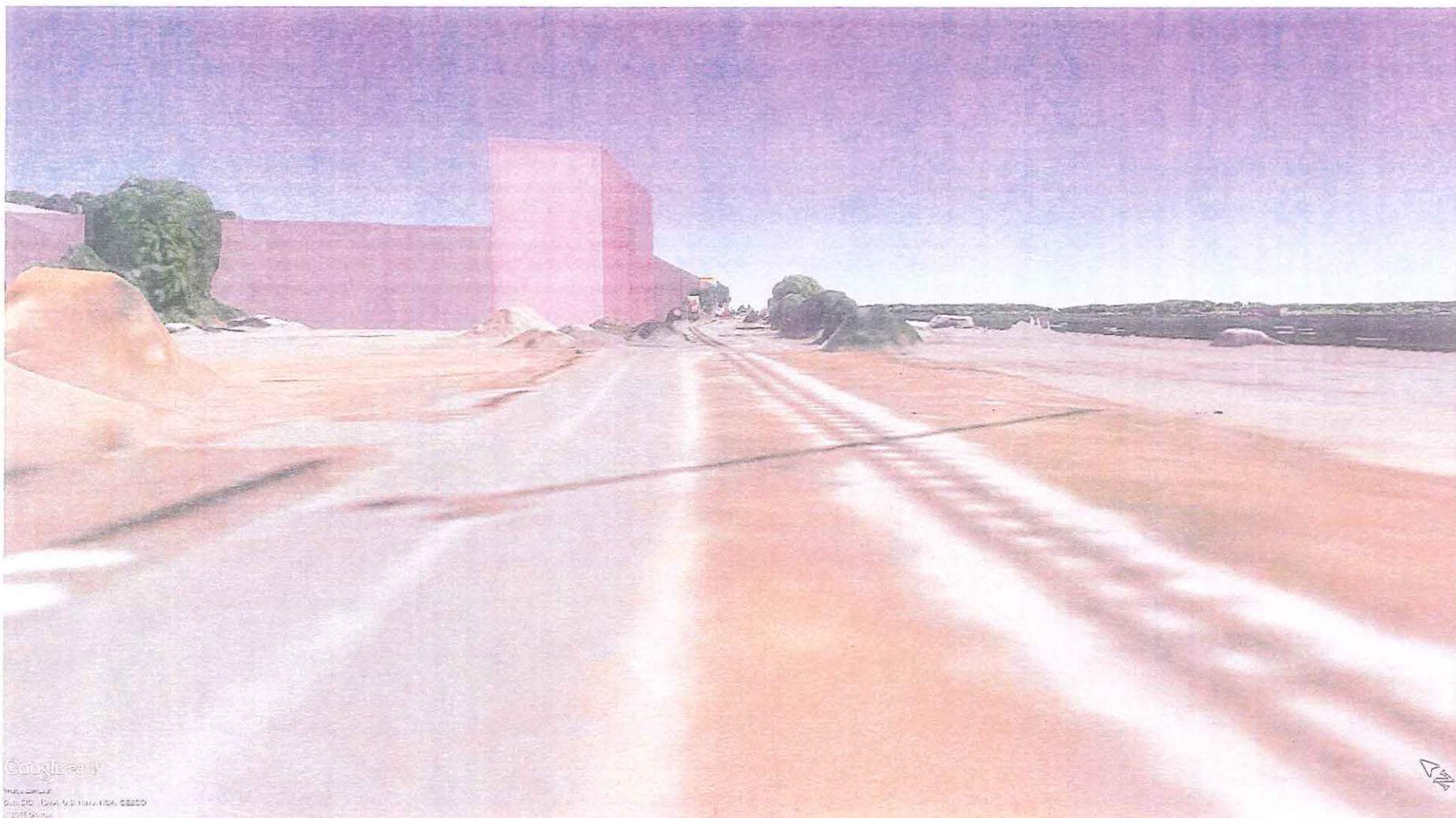
Google Earth

Image taken
on 02/24/2015 at 10:00 AM PST
© 2015 Google



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & WATERVILLE STREET
POSSIBLE BUILDOUT UNDER PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



Copyright
Image courtesy
Soul of Portland, Inc. 02/24/2015



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

THAMES STREET & EASTERN PROMENADE TRAIL
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

EASTERN PROMENADE TRAIL #1
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



Copyright

Map by Google
Data Sourced from: U.S. Navy, NOAA, USGS
© 2015 Google



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

EASTERN PROMENADE TRAIL #4
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



Google earth

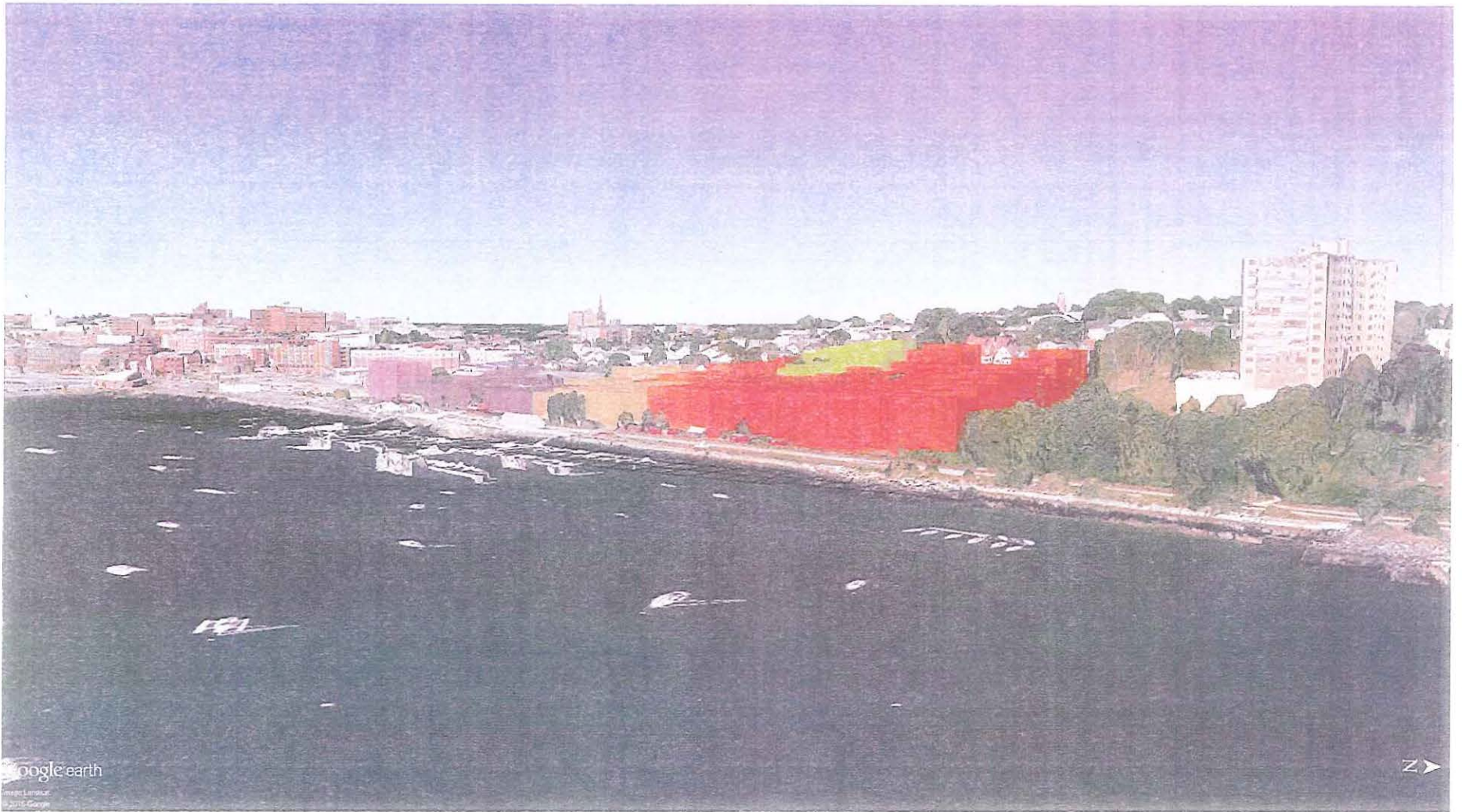
Image Layers
© 2015 Google

N



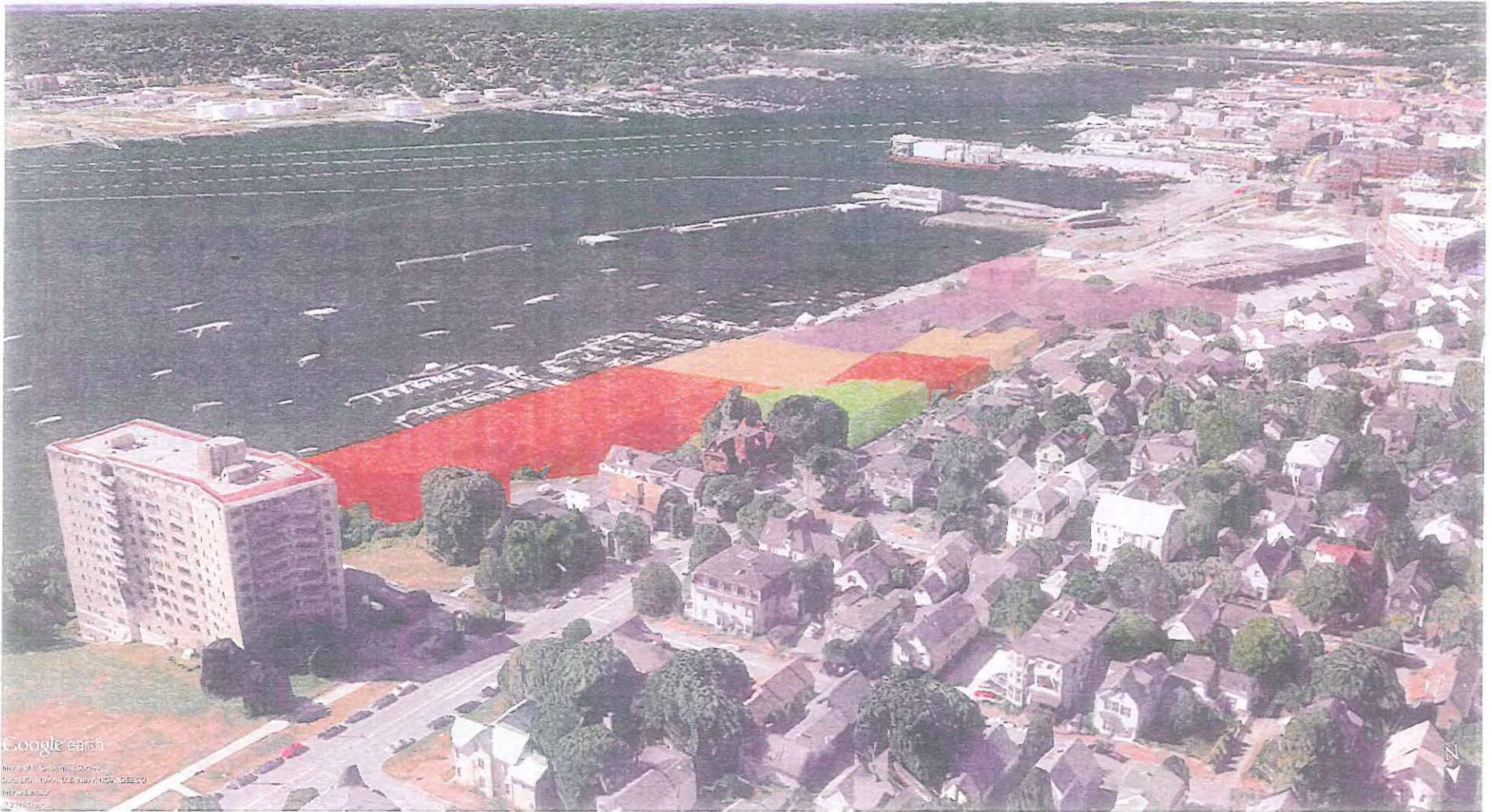
SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

VIEW OF PORTLAND COMPANY SITE FROM SOUTH
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

VIEW OF PORTLAND COMPANY SITE FROM EAST
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

VIEW OF PORTLAND COMPANY SITE FROM NORTH
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



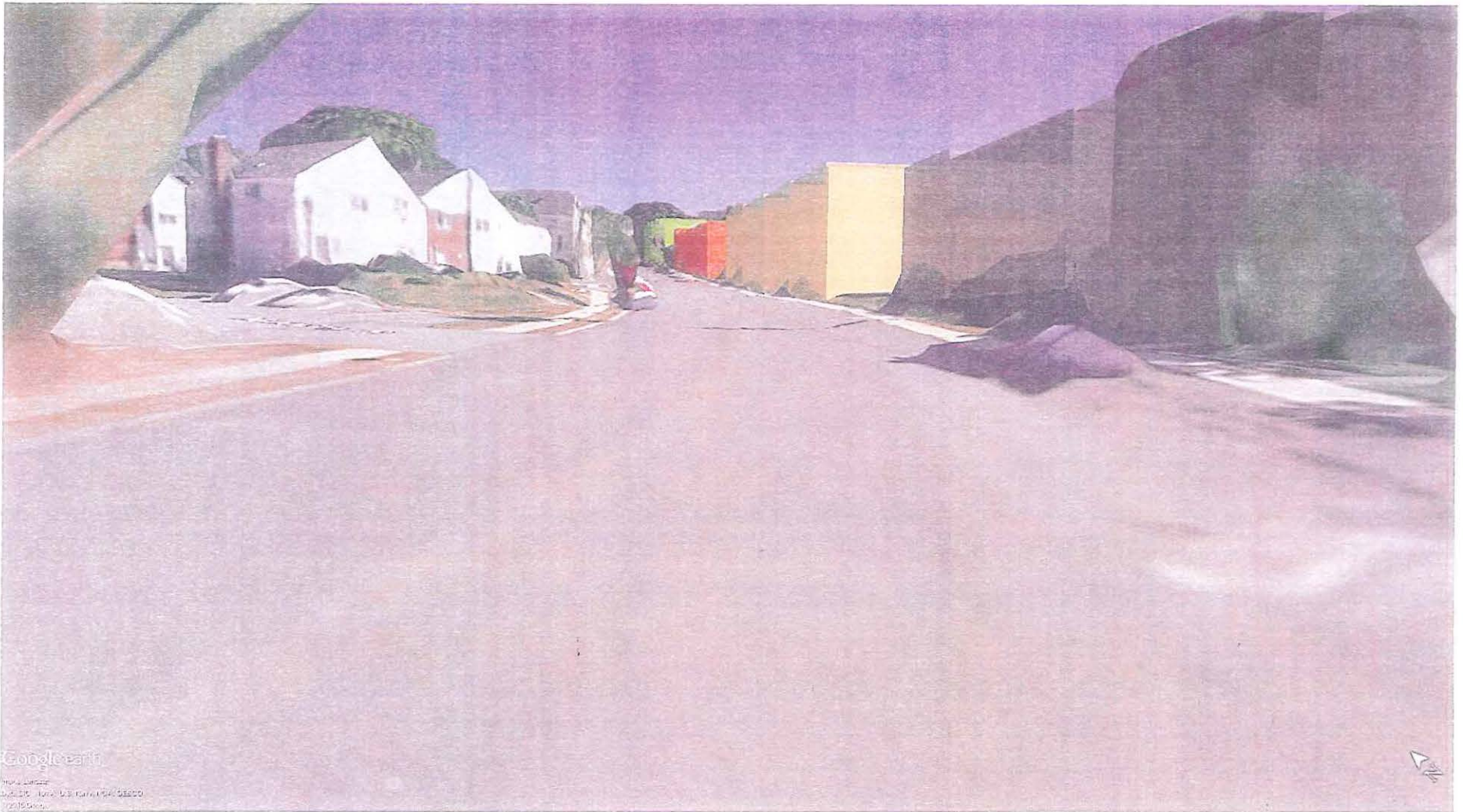
SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
LIMITS OF PROPOSED B6 RE-ZONING FROM FLOOD PLAIN
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



 SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
POSSIBLE BUILDOUT UNDER PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



Google Earth

Portland, Oregon, USA
37.7502° N 122.6750° W
© 2015 Google



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

58 FORE STREET
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013

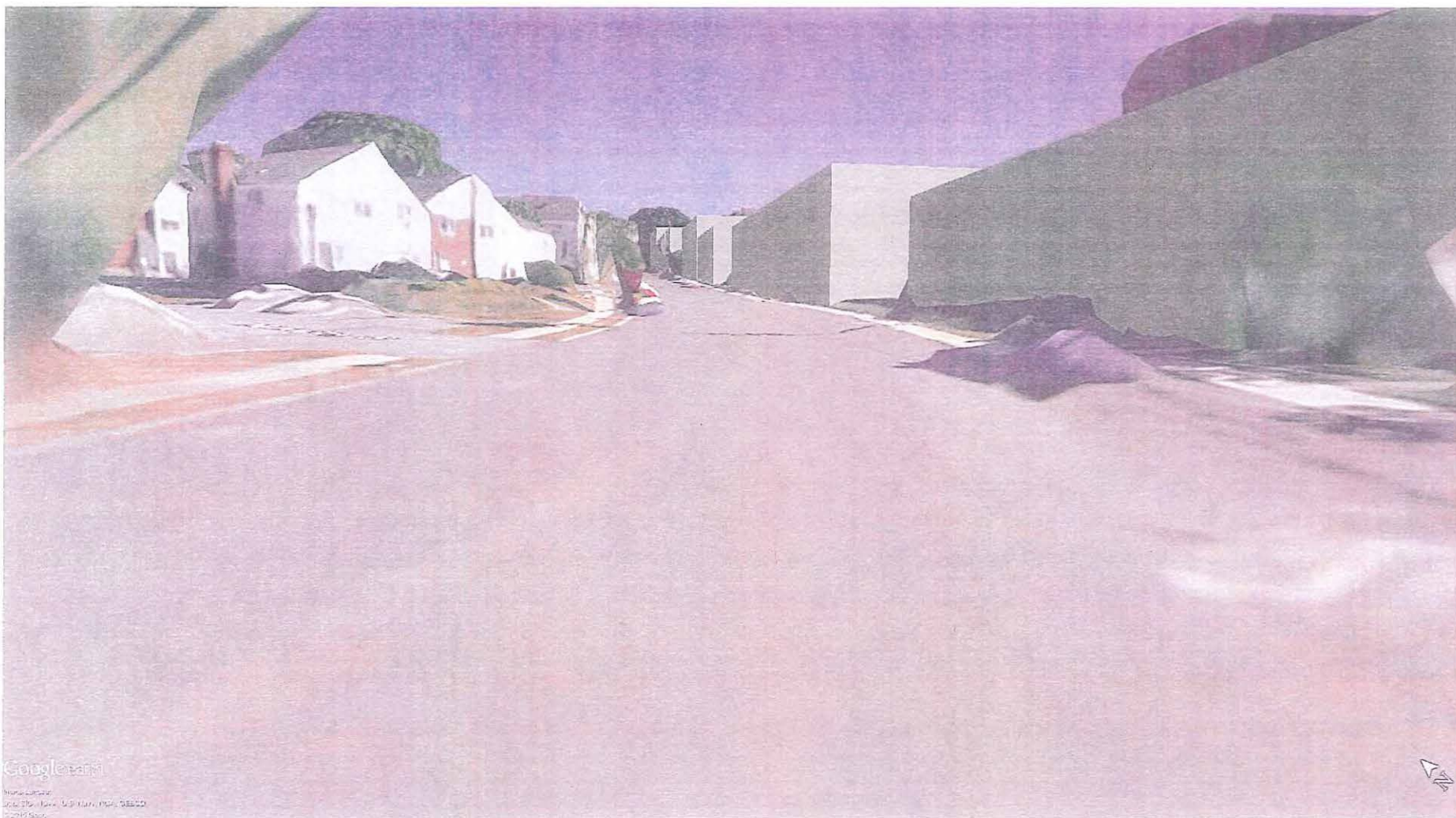


Google Earth
Data 10/10/15 - 10/10/15, 10/10/15
Map data
© 2015 Google



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

58 FORE STREET
LIMITS OF PROPOSED B6 RE-ZONING FROM FLOOD PLAIN
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



Google Earth

Image courtesy of
Soul of Portland, a 501(c)(3) non-profit
organization



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

58 FORE STREET
POSSIBLE BUILDOUT UNDER PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



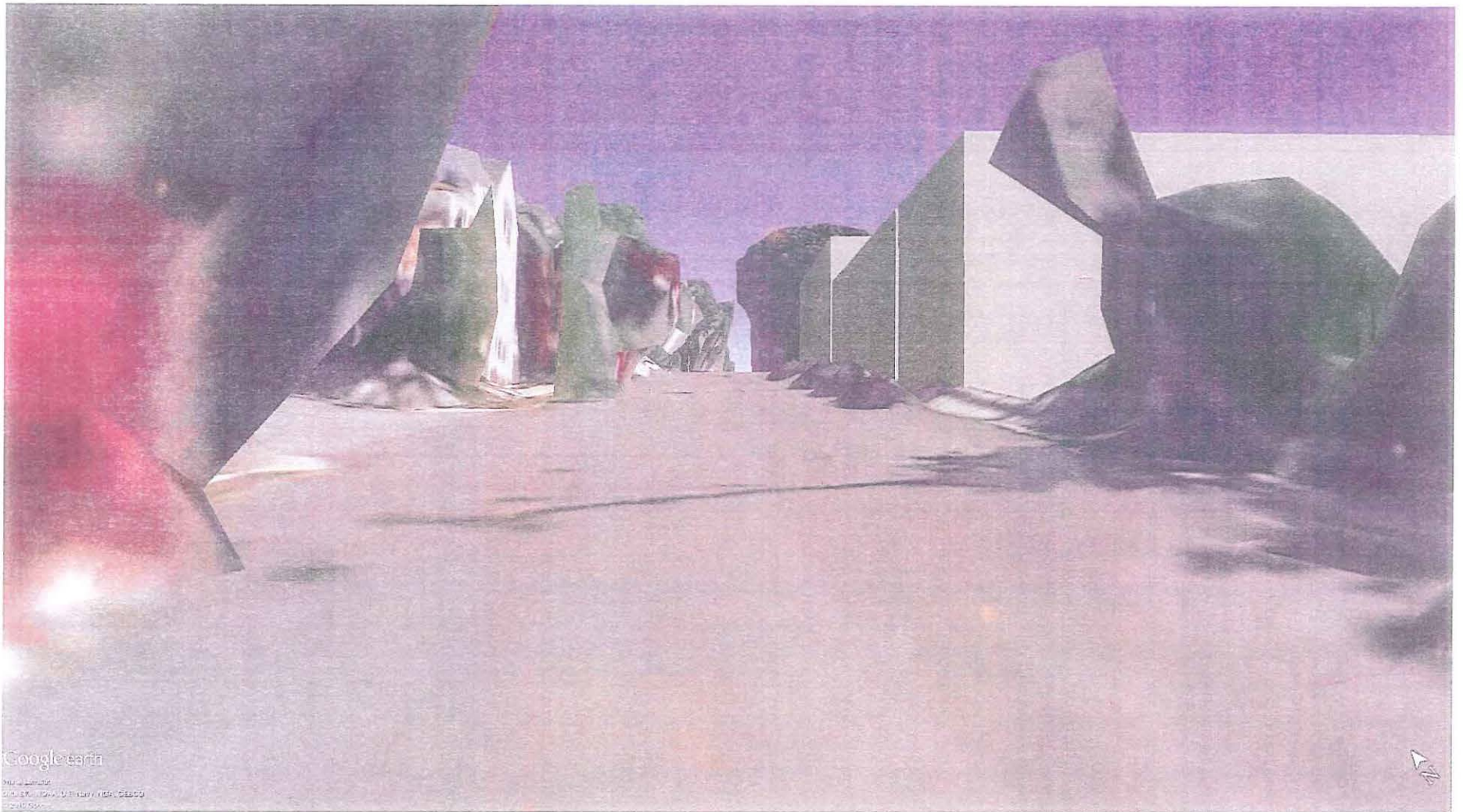
SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & ST. LAWRENCE STREET
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & ST. LAWRENCE STREET
LIMITS OF PROPOSED B6 RE-ZONING FROM FLOOD PLAIN
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & ST. LAWRENCE STREET
POSSIBLE BUILDOUT UNDER PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013

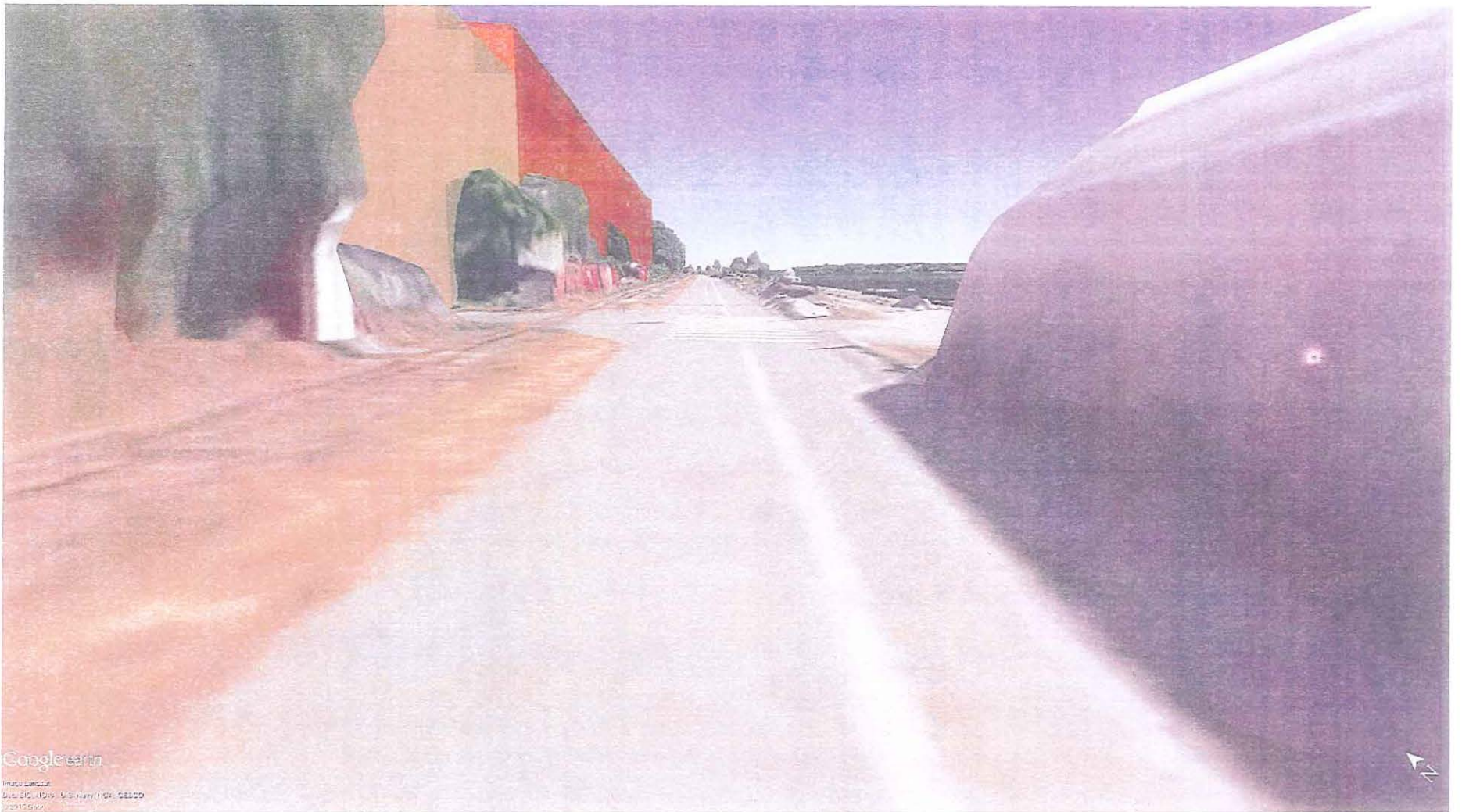


Image captured
Date: 05/11/2013, 12:11 PM, 100% Zoom
© 2013 Google



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

EASTERN PROMENADE TRAIL #2
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



Google Earth

Image captured
Sat: 8/6/10 10:10 AM, 10:10 AM, 10:10 AM
22/10/2010



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

EASTERN PROMENADE TRAIL #3

LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013

KELLY, REMMEL & ZIMMERMAN
ATTORNEYS AT LAW
53 EXCHANGE STREET
P.O. BOX 597
PORTLAND, MAINE 04112-0597

U. CHARLES REMMEL, II
BARRY ZIMMERMAN
GRAYDON G. STEVENS
R. TERRANCE DUDDY
TIMOTHY H. NORTON
MICHAEL A. DUDDY
JOHN A. MCARDLE, III
JENNIFER A. ARCHER
LAURI BOXER-MACOMBER
TIMOTHY E. STEIGELMAN

City of Portland

MAR 19 2015

Office of the Mayor

TELEPHONE
207-775-1020

WATTS
800-540-4212

FAX
207-773-4895

OF COUNSEL
JOHN N. KELLY
ROBERT E. CROWLEY
JULIUS CIEMBRONIEWICZ

WEB SITE
www.krz.com

March 19, 2015

Mayor Michael Brennan
Portland City Hall
389 Congress St.
Portland, Maine 04101

Re: Portland Company Premises
B6 Zoning Change Request

Dear Mayor Brennan:

I am writing to you in your capacity as Mayor with respect to B6 zoning change request for the former Portland Company premises ("premises"). Our firm represents a number of property owners on Munjoy Hill whose properties would be affected by the proposed zone change request. I would request that you distribute this letter and the attached Affidavit of former Councilor Gorham to the other Council members, and that the letter and affidavit be made part of the Council record of proceedings on this request.

The owners of the premises have asked for a zone change, but have declined to specify what they intend for the property should the zone change be allowed. The Council, of course, is under no requirement to accede to their request without such an explanation. Doubtless this will be an issue of concern for the Council and the public, and will be the subject of comment and further debate.

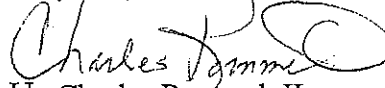
The enclosed Affidavit and supporting materials address a separate area of concern. This Council, as well as prior Councils, have done their best to have the affairs of the City, and the Council's decisions, be conducted in a public and transparent way. A prior Council in 2004, after much study, public comment, and deliberation, adopted an objective height measurement standard for the Portland Company premises as part of the Portland Comprehensive Plan. The

materials with this Affidavit establish that the height measurement standard adopted by that Council for the premises east of Mountford Street or its extension was to be from 2 feet above flood plain, and not by reference to "average grade". The policy purpose was to preserve and protect the views and sightlines of the East End.

Based on what we understand to be an incomplete review of the 2004 proceedings, the Planning Board, primarily relying on Planning Board staff assertions, has proposed that the measurement standard for the premises would be average grade. Considering how much effort the prior Council expended, with substantial public participation, it would be unfortunate if all its efforts were to be negated based on an incorrect set of assumptions by a later Planning Board relating to height measurements at the premises.

For the good order of public proceedings, transparent governance, and importantly to ensure the continuity and integrity of prior Council actions, this Council should make clear that a prior Council has already adopted a height measurement standard as part of the Comprehensive Plan east of Mountford Street or its extension of 2 feet above flood plain, regardless of whether or not this Council changes the zoning for the premises to B6.

Very truly yours,



U. Charles Remmel, II

UCR/kaj

cc: Mary Costigan, Esq.

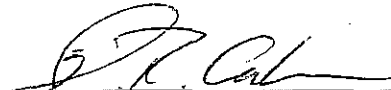
**Affidavit Re: Height Measurements in Council Order
79-04/05**

My name is William R. Gorham and I am a resident of Portland, Maine.

1. From 2003 to 2006, I was a member of the Portland Maine City Council ("Council") representing District 1. District 1, among other areas, encompasses Munjoy Hill.
2. In 2003-2004, as a member of the Council, I participated in the development of and deliberations concerning Council Order 79-04/05, "Order Amending City's Comprehensive Plan Re: Eastern Waterfront Master Plan, Including Eastern Waterfront Height Study" (hereinafter "Order").
3. As a member of the Council and as the Council representative from District 1, I was particularly concerned with the heights of any new buildings to be erected on the Eastern Waterfront.
4. I, along with other Council members, was instrumental in causing the building heights proposed in early discussions, proposals, and in drafts of the proposal Order to be reduced, and that the building heights east of Mountfort Street or its extension be measured from 2 feet above flood plain levels.
5. I have reviewed the Council Order dated December 8, 2004, and particularly Exhibit 33 dated September 13, 2004 which appears as part of the City Clerk's records of the Order, a copy of which is annexed hereto as Exhibit 1 (the "Incorrect Exhibit 33").
6. I have also reviewed and attach a later Exhibit 33 dated November 1, 2004 (the "Correct Exhibit 33") as Exhibit 2 which was before the Council at the time the Council passed the Order.
7. I testify and confirm that the later November 1 Correct Exhibit 33 was the Exhibit that was included and adopted as part of the Order was passed by the Council on December 8, 2004, as modified by the B6 Overlay in the area west of Mountfort Street or its extension, and the Incorrect Exhibit 33 was not used or adopted by the Council.
8. The Correct Exhibit 33 carries a footnote 2 that the height of the buildings east of Mountfort Street or its extension were to be measured from 2 feet above flood plain. This was a deliberate choice and critical criteria established by the Council for the adoption of the Order to control building heights and to preserve views and view angles along Fore Street.

9. It was the intention of the Council in considering the adoption of the Order as part of Portland's Comprehensive Plan to use 2 feet above flood plain as the point of measurement east of Mountfort Street or its extension, and that is confirmed in various working papers considered and utilized by the Council in its discussions.
10. It was clear to the public and the Council that this height measurement criterion was being proposed for adoption, and I am attaching as Exhibit 3 and incorporating herein a relevant transcript from the public hearing on the issue of November 1, 2004. This transcript portion comes after the public comment portion, and near the beginning of the Council debate, which addressed both the proposed zoning of the Eastern Waterfront and adopting the height provisions of the Comprehensive Plan. "Drawing A" in Mr. Needleman's testimony relating to the height study for the Comprehensive Plan corresponds with the Correct Exhibit 33, and which Drawing A is annexed hereto as Exhibit 4.
11. I also am attaching as Exhibit 5 Appendix 5, "B6 Building Height Overlay & Building Envelopes" adopted by the Council on December 8, 2004 relating to the B6 zone, and reference is made to footnote 4, again confirming the measurement from 2 feet above flood plain. "Drawing B" in Mr. Needleman's transcript testimony corresponds to the footnotes in Appendix 5 involving the B6 areas under discussion, and which Drawing B is attached hereto as Exhibit 6.
12. While various amendments and changes were proposed and discussed for the B6 Overlay area, west of Mountfort Street, the measurement for building heights measured from 2' feet about flood plain did not change and was not proposed to be changed by The Council from the time it was presented by the Council to the public on November 1, 2004 through its adoption by the Council on December 8, 2004.
13. To incorrectly utilize "average grade" as a measuring standard for the waterfront area east of Mountfort Street or its extension would not be consistent with the height limitations presented to the public and adopted by the Council. It would render ineffective the purpose and intent of the Council as to the Order, which was adopted amid significant public discussion, with the Council adopting measurement standards and setting limits on the heights proposed and/or recommended by the Portland Planning Board and the Planning Board staff.

Dated: 03-18-2015



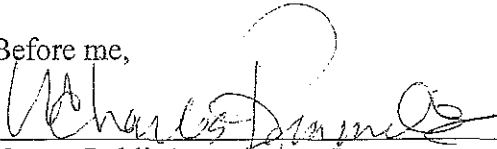
William R. Gorham

STATE OF MAINE, ss.

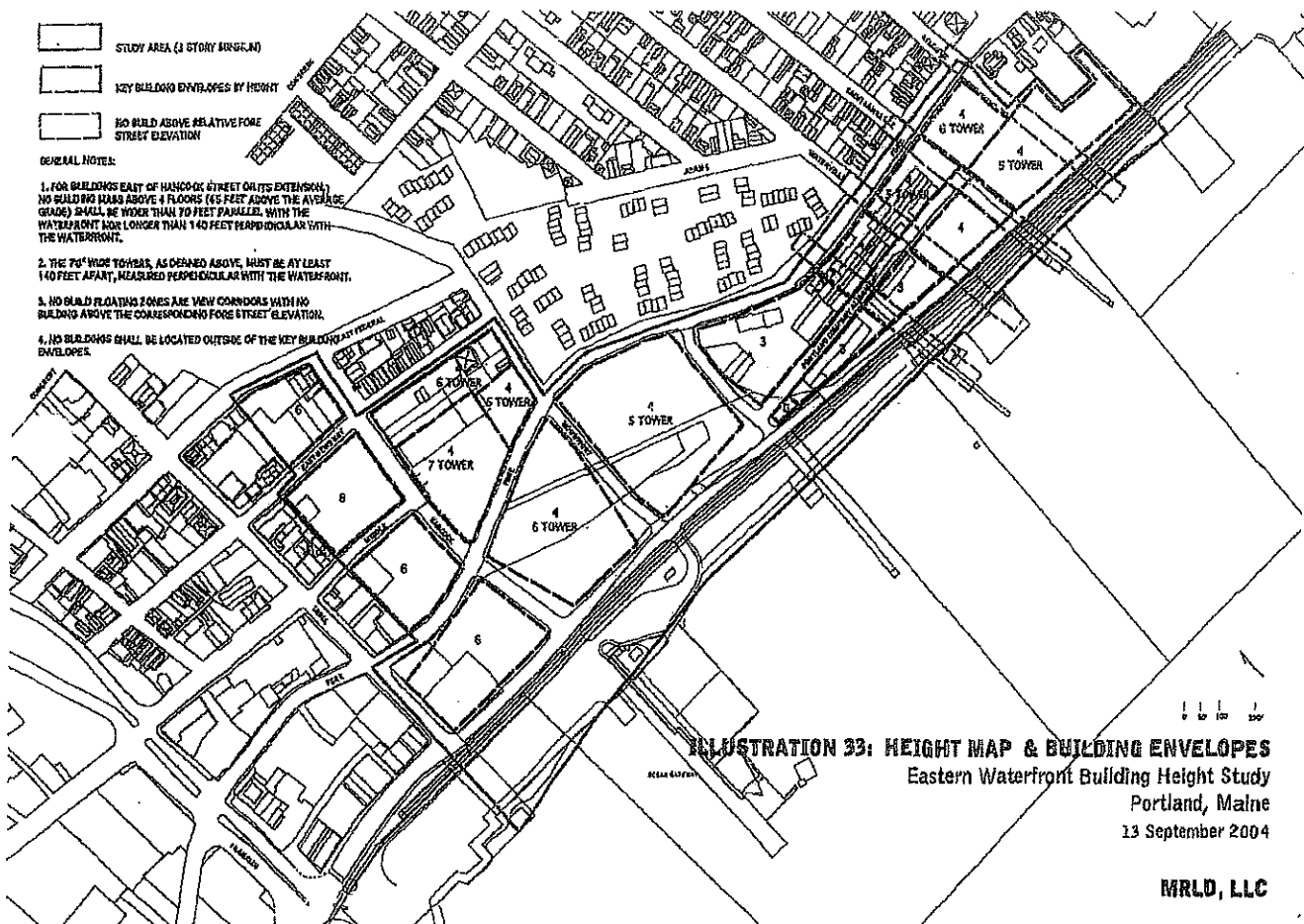
March 18, 2015

Personally appeared William Gorham and gave oath that the foregoing Affidavit is true based on his personal knowledge.

Before me,



Notary Public/Attorney-at-Law



-  STUDY AREA (3 STORY MINIMUM)
 KEY BUILDING ENVELOPES BY HEIGHT
 NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2' ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM. WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

3. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.

4. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.

5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

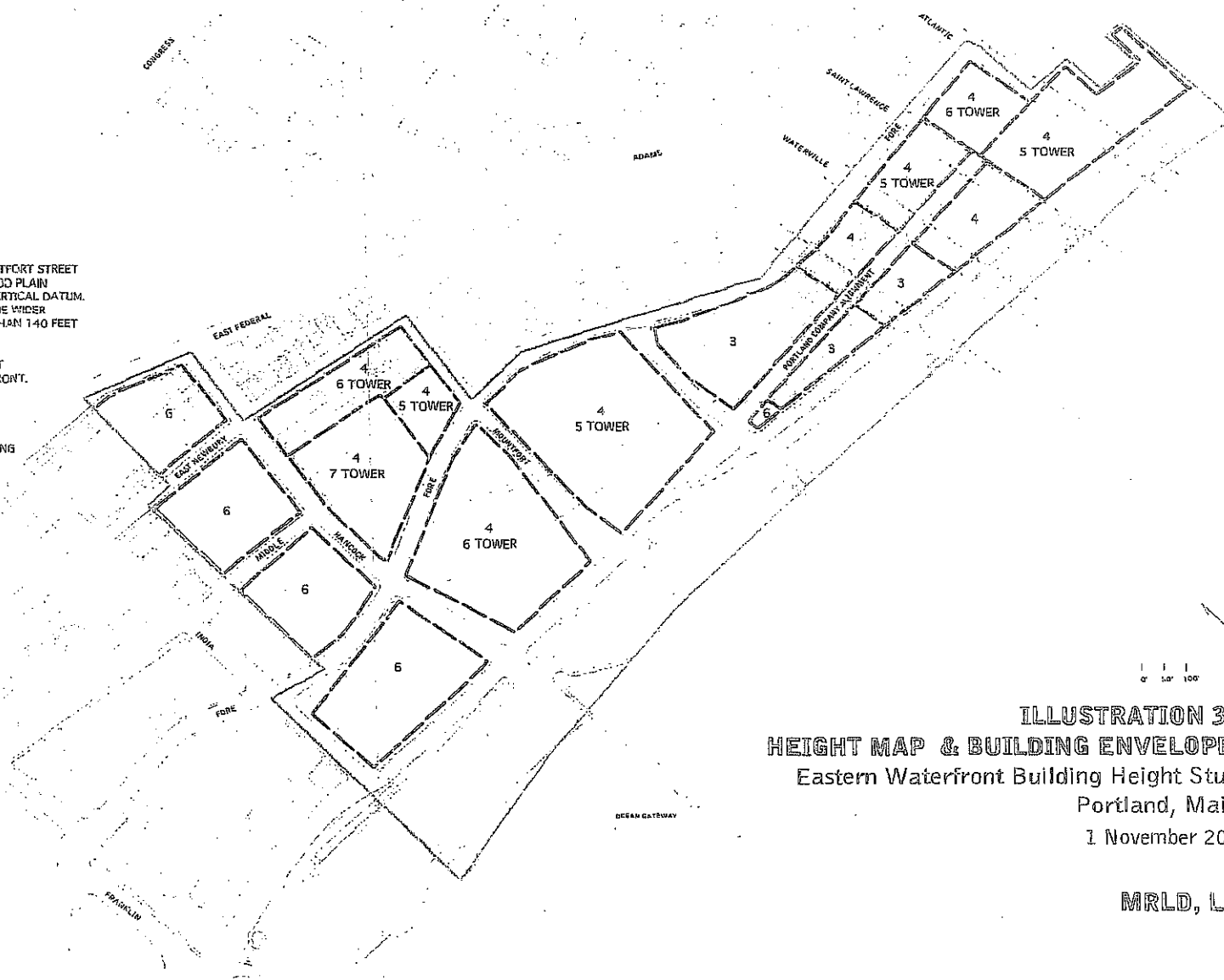


ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

MRLD, LLC

**November 1, 2004, Portland City Council, Public Hearing; Close of Public Comment,
Beginning of Council Debate
(Hour 2:08:40)**

Mayor Nathan Smith: Get to those first just to kind of start with a clear understanding. One of the questions has already just been answered or clarified. It sounds like the Cloutier Amendment now better understood I think by a number of us, is, is off the table. That's number one. The question was is it off the table, it's off the table. I think another point that was raised was about the Abyssinian Church and the concern that the zoning might reach over into the area where that Church is located. Correct me if I am wrong but as I understand it, it does not reach over there. There was talk about that but it does not go that far, so the Abyssinian Church is not within the area of being re-zoned. The third question that I have written down here is it was a question about how to measure height and how was it measured and I wonder which one of you wanted to explain that provision briefly please for all of us.

William Needleman, Planning Board Staff: Generally in the city the zoning administrator measures height from average grade. If a sloping site is developed then the zoning administrator takes the elevation of each four corners of the building, creates an average and then measures up from there. Because of the extreme changes in grade we find on the eastern waterfront, for, these are included in the notes on both drawing A and on Drawing B, note number 2 on Drawing A and note number 5 on Drawing B. East of Mountfort Street building elevations are tied to two feet above flood plain which is the buildable elevation. So there would be no chance of a developer grabbing a foothold on upper Fore Street and averaging grade and going up higher.

Mayor Nathan Smith: Gotcha yup

William Needleman, Planning Board Staff: That ok?

Mayor Nathan Smith: Yes, that's very helpful. Thank you. I think I've got the factual questions. Everything else is policy I guess that was brought up and council can address that in due course. Councilor O'Donnell we've had a suggestion from Councilor Cloutier to get the amendments that people want to make on the table so we at least know what we are talking about. Do you mind if we fish for that for a moment? And I guess my question is and we could start with Councilor Gorham. Let's start with what you intend to propose as an amendment and I would ask anyone else if you intend to propose an amendment that you would do that at this time as well so we can have them all kind of out there and react accordingly in our comments.

- STUDY AREA (3 STORY MINIMUM)
- KEY BUILDING ENVELOPES BY HEIGHT
- NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2' ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM. WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

3. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.

4. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.

5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

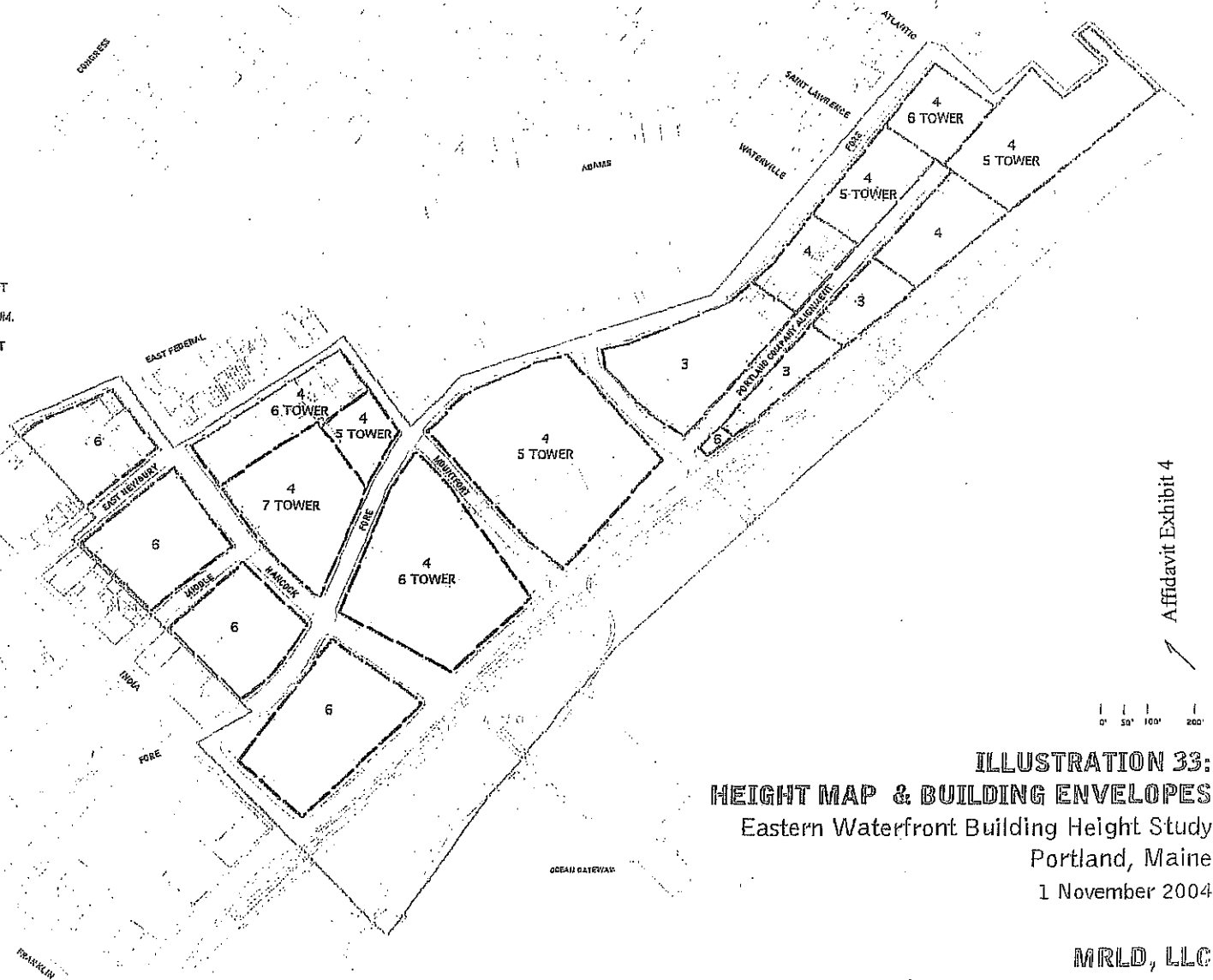


ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

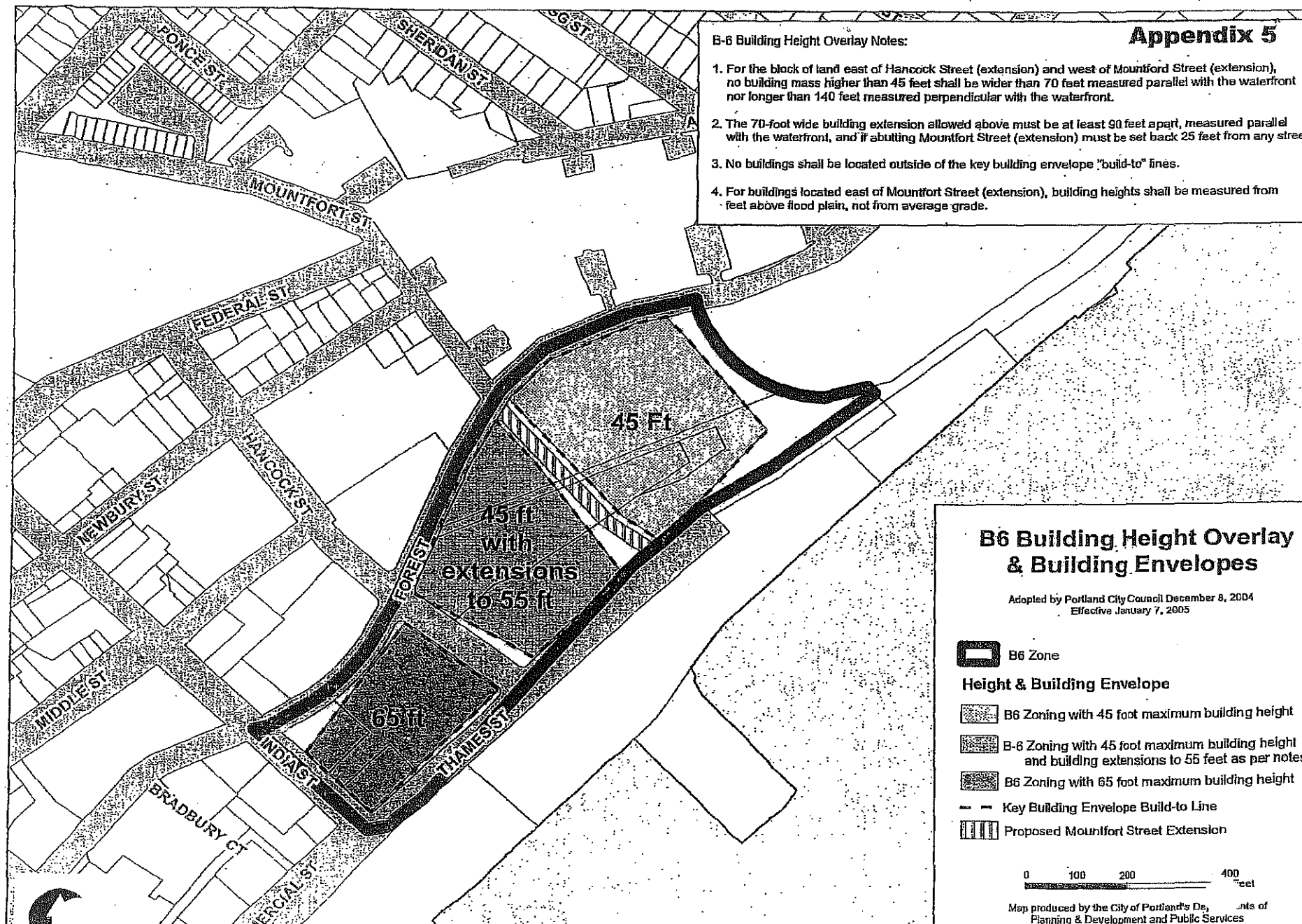
MRLD, LLC

A

Appendix 5

B-6 Building Height Overlay Notes:

1. For the block of land east of Hancock Street (extension) and west of Mountford Street (extension), no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront.
2. The 70-foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountford Street (extension) must be set back 25 feet from any street.
3. No buildings shall be located outside of the key building envelope "build-to" lines.
4. For buildings located east of Mountford Street (extension), building heights shall be measured from feet above flood plain, not from average grade.



B6 Building Height Overlay & Building Envelopes

Adopted by Portland City Council December 8, 2004
Effective January 7, 2005



B6 Zone

Height & Building Envelope



B6 Zoning with 45 foot maximum building height



B-6 Zoning with 45 foot maximum building height and building extensions to 55 feet as per notes



B6 Zoning with 65 foot maximum building height



Key Building Envelope Build-to Line



Proposed Mountford Street Extension

0 100 200 400 feet

Map produced by the City of Portland's Department of Planning & Development and Public Services

-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

General Notes:

1. For any block that is designated as a receiving area for towers, no building mass above four stories (45 feet above average grade) shall be wider than 70 feet parallel with the waterfront nor longer than 140 feet perpendicular with the waterfront.
2. Within each block, the 70 foot wide towers, as defined above, must be at least 140 feet apart, measured parallel with the waterfront.
3. No buildings shall be located outside of the key building envelope, "build-to" lines.
4. For buildings located east of Mountfort Street, building heights shall be measured from 2 feet above flood plane, not from average grade.

Proposed limits of the B-6 Zone

Note: Proposed Building Height Overlay Zone would only apply to the B-6 portion of the Eastern Waterfront

Proposed B-6:

BUILDING HEIGHT OVERLAY MAP

Eastern Waterfront Building Height Study

Portland, Maine

13 September 2004

B

MRLD, LLC

KELLY, REMMEL & ZIMMERMAN

ATTORNEYS AT LAW
53 EXCHANGE STREET
P.O. BOX 597
PORTLAND, MAINE 04112-0597

CITY OF PORTLAND, MAINE

MAR 26 2015

City Managers Office

U. CHARLES REMMEL, II
BARRY ZIMMERMAN
GRAYDON G. STEVENS
R. TERRANCE DUDDY
TIMOTHY H. NORTON
MICHAEL A. DUDDY
JOHN A. MCARDLE, III
JENNIFER A. ARCHER
LAURI BOXER-MACOMBER
TIMOTHY E. STEIGELMAN

TELEPHONE
207-775-1020

WATTS
800-540-4212

FAX
207-773-4895

OF COUNSEL
JOHN N. KELLY
ROBERT E. CROWLEY
JULIUS CIEMBRONIEWICZ

WEB SITE
www.krz.com

March 26, 2015

Mayor Michael Brennan
Portland City Hall
389 Congress St.
Portland, Maine 04101

Re: Portland Company Premises
B6 Zoning Change Request

Dear Mayor Brennan:

On March 19, 2015, I provided materials to you relating to the former Portland Company premises ("Premises") demonstrating that a prior Council adopted a height measurement standard for the Premises of 2 feet above flood plain, and not average grade.

I am supplementing that submission with additional materials from the final deliberations of the Planning Board ("PB") following its public hearing on September 14, 2004. Originally the PB and the PB staff had proposed buildings as high as 8 stories from flood plain for the Premises and presented this to a neighborhood meeting on or about September 7, 2004. The heights and massing received significant public outcry and opposition.

As a result, following the public comment and presentation of the height considerations by a consultant to the PB, Mitchell Razor (who explained his work as measured from flood plain on the tapes of the meeting), the PB was presented with two alternatives in the form of an Illustration 33. In the first of these, which I have labeled Exhibit A, the heights would remain at up to 8 stories. In the second, Exhibit B, red blocks are imposed over the previous rendition with lower heights. On each of these illustrations, on the face of the drawings for the area east of Mountfort Street, the parcels carry the legend "**FROM FLOODPLAIN.**" The PB adopted Exhibit B with the lower heights for recommendation to the Council.

The point of these Illustrations is obvious. Starting with the PB and continuing through the public presentations to and consideration by the Council, the measurement from flood plain never changed.

Much is made of a notation on one of the footnotes on one of these drawings "No building mass above 4 floors (45 feet above the average grade) shall be wider than 70 feet parallel with the waterfront nor longer than 140 perpendicular with the waterfront." It seems clear the words "45 feet above average grade" are defining what is meant in terms of the height of a four story building.

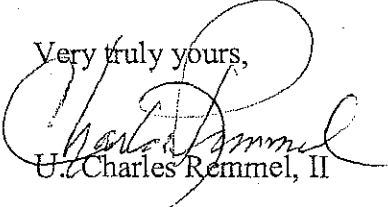
As I indicated in my prior correspondence, and as set out in the Affidavit of a Counselor at the time, the public presentation to the 2004 Council of the height measurement standard from flood plain was clear and unambiguous (see Transcript of public description presented to the public and the Council attached to Gorham Affidavit, Exhibit 3, also annexed hereto).

An argument has been advanced, as I understand it, that because a draft height study was put in the Councilor's package in September of 2004, what the public was presented, and what the Council debated (including updated illustrations) should be ignored. An analogy here is to the legislative process. A bill may be reported out of committee "ought to pass." By the time a bill is printed for debate and adoption by the legislature, the bill may have been reviewed and errors and inconsistencies corrected, clarifications and language improvements made, and cross-references checked and/or added. No one would claim upon adoption by the legislature that the committee bill nevertheless controls. In the same way, a draft report inserted in a Council package, that was not the basis of the public process and Council debate and action, cannot reasonably be claimed to have rendered that entire public process meaningless.

Each Council needs to honor the integrity of prior Councils and the extensive work done in 2004 on what was a publicly controversial topic. That this Council may think differently about an area of the City from what a prior Council had decided, is within a current Council's prerogative. But the starting point is not to deny or attempt to undermine what happened. I would submit a correct approach is to confirm that the 2 feet above flood plain measurement standard was adopted, which would require no change to the Comprehensive Plan, and start from that point.

I would request that this communication be distributed to the other Council members, and also be made part of the record on the pending zone change application.

Very truly yours,


U. Charles Remmel, II

UCR/kaj

Enclosures

cc: Mary Costigan, Esq.

**November 1, 2004, Portland City Council, Public Hearing; Close of Public Comment,
Beginning of Council Debate
(Hour 2:08:40)**

Mayor Nathan Smith: Get to those first just to kind of start with a clear understanding. One of the questions has already just been answered or clarified. It sounds like the Cloutier Amendment now better understood I think by a number of us, is, is off the table. That's number one. The question was is it off the table, it's off the table. I think another point that was raised was about the Abyssinian Church and the concern that the zoning might reach over into the area where that Church is located. Correct me if I am wrong but as I understand it, it does not reach over there. There was talk about that but it does not go that far, so the Abyssinian Church is not within the area of being re-zoned. The third question that I have written down here is it was a question about how to measure height and how was it measured and I wonder which one of you wanted to explain that provision briefly please for all of us.

William Needleman, Planning Board Staff: Generally in the city the zoning administrator measures height from average grade. If a sloping site is developed then the zoning administrator takes the elevation of each four corners of the building, creates an average and then measures up from there. Because of the extreme changes in grade we find on the eastern waterfront, for, these are included in the notes on both drawing A and on Drawing B, note number 2 on Drawing A and note number 5 on Drawing B. East of Mountfort Street building elevations are tied to two feet above flood plain which is the buildable elevation. So there would be no chance of a developer grabbing a foothold on upper Fore Street and averaging grade and going up higher.

Mayor Nathan Smith: Gotcha yup

William Needleman, Planning Board Staff: That ok?

Mayor Nathan Smith: Yes, that's very helpful. Thank you. I think I've got the factual questions. Everything else is policy I guess that was brought up and council can address that in due course. Councilor O'Donnell we've had a suggestion from Councilor Cloutier to get the amendments that people want to make on the table so we at least know what we are talking about. Do you mind if we fish for that for a moment? And I guess my question is and we could start with Councilor Gorham. Let's start with what you intend to propose as an amendment and I would ask anyone else if you intend to propose an amendment that you would do that at this time as well so we can have them all kind of out there and react accordingly in our comments.

- STUDY AREA (3 STORY MINIMUM)
- KEY BUILDING ENVELOPES BY HEIGHT

NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. NO BUILDING MASS ABOVE 5 FLOORS SHALL BE WIDER THAN 70' PARALLEL WITH THE WATERFRONT AND LONGER THAN 110' PERPENDICULAR WITH THE WATERFRONT.
2. 70' WIDE TOWER/BUILDING AREAS ARE A MINIMUM OF 140' APART, MEASURED PARALLEL WITH THE WATERFRONT
3. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION

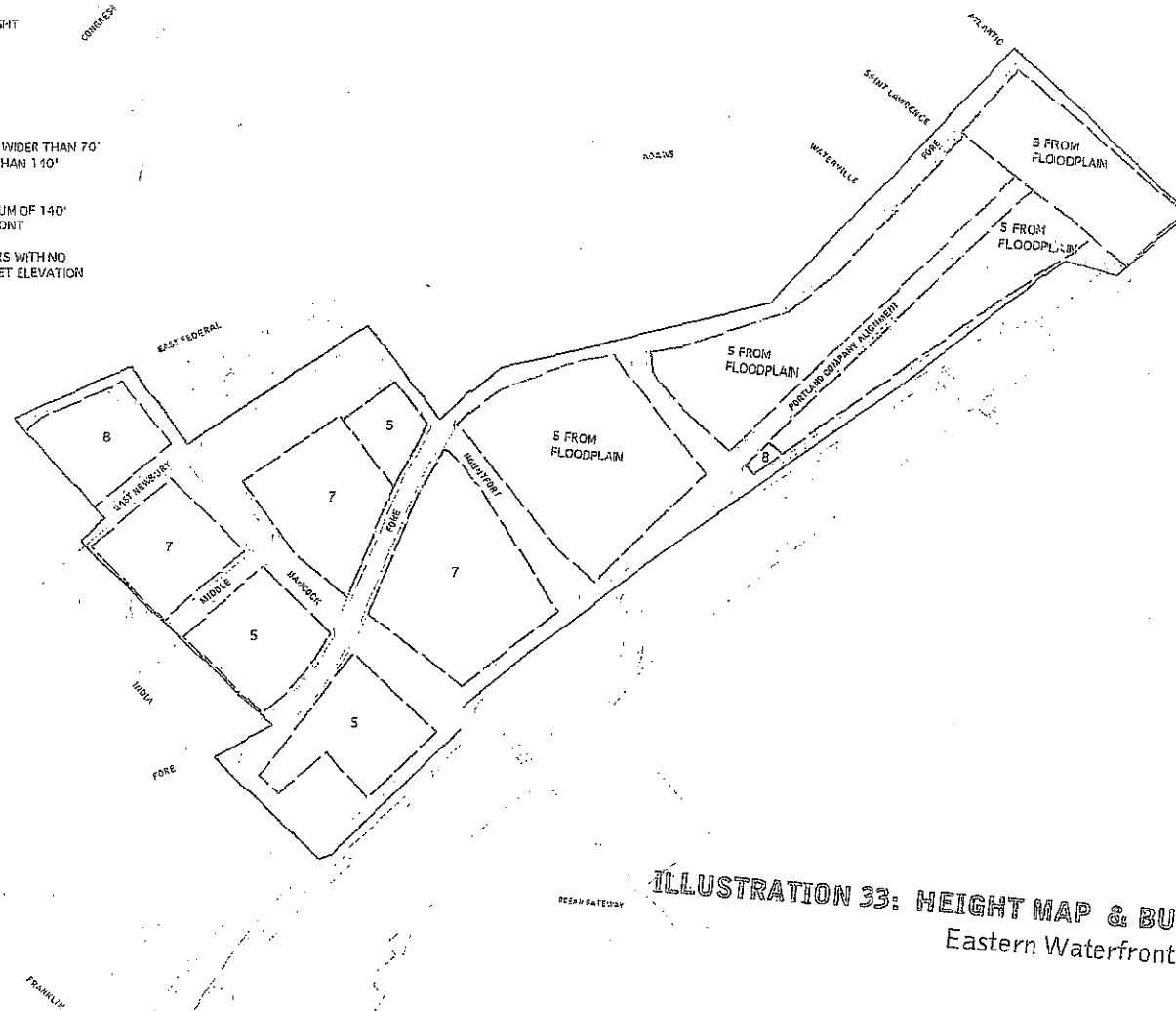


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 August 2004

MRLD, LLC

-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS LOCATED EAST OF HANCOCK STREET OR ITS EXTENSION, NO BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT
2. THE 70 FOOT WIDE TOWERS, AS ALLOWED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PARALLEL WITH THE WATER.
3. NO-BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDINGS ALLOWED ABOVE THE CORRESPONDING FORE STREET ELEVATION
4. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES

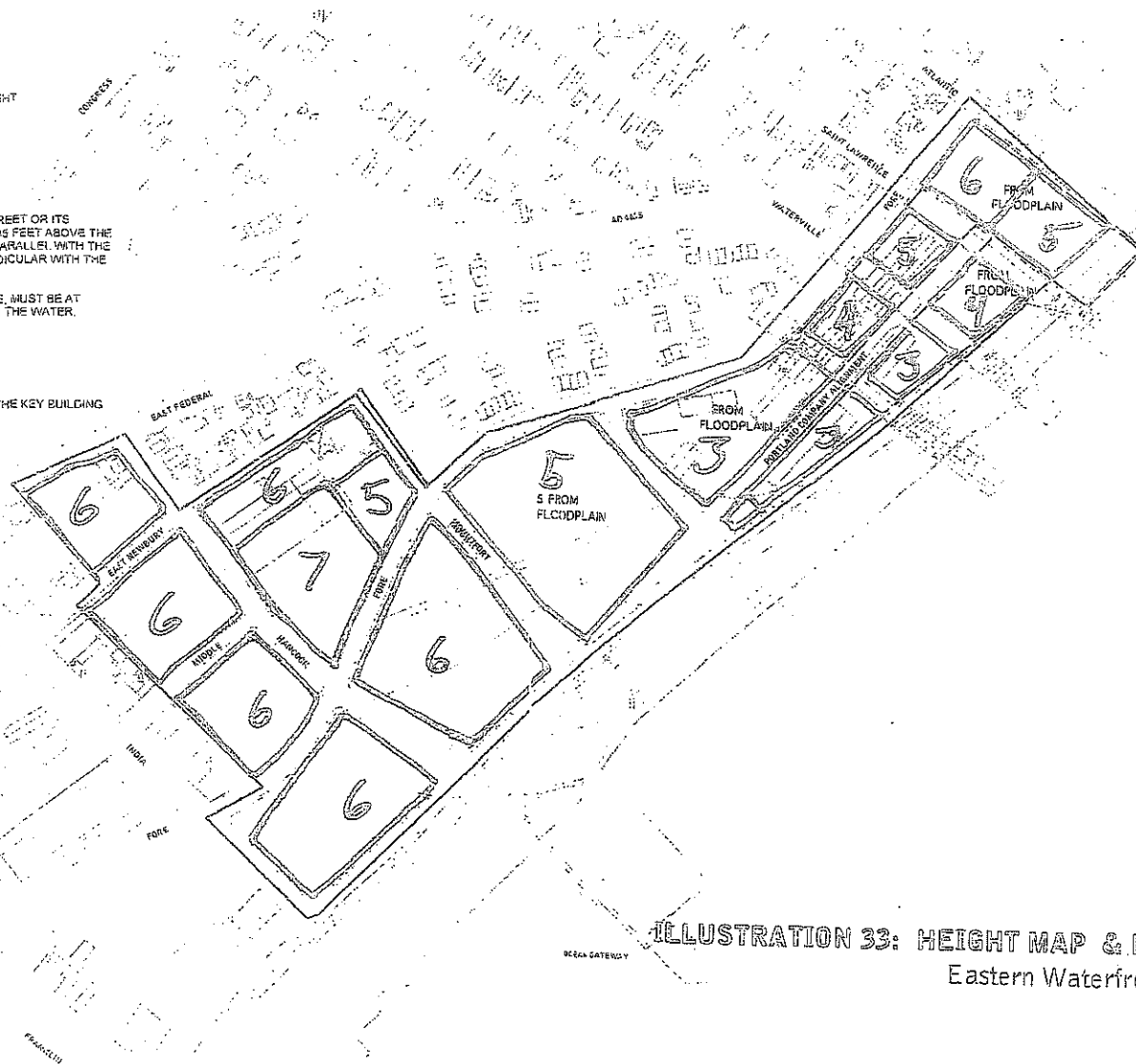


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 August 2004

WRLD, LLC

KELLY, REMMEL & ZIMMERMAN
ATTORNEYS AT LAW
53 EXCHANGE STREET
P.O. BOX 597
PORTLAND, MAINE 04112-0597

CITY OF PORTLAND, MAINE

MAR 26 2015

City Managers Office

U. CHARLES REMMEL, II
BARRY ZIMMERMAN
GRAYDON G. STEVENS
R. TERRANCE DUDDY
TIMOTHY H. NORTON
MICHAEL A. DUDDY
JOHN A. MCARDLE, III
JENNIFER A. ARCHER
LAURI BOXER-MACOMBER
TIMOTHY E. STEIGELMAN

TELEPHONE
207-775-1020

WATTS
800-540-4212

FAX
207-773-4895

OF COUNSEL
JOHN N. KELLY
ROBERT E. CROWLEY
JULIUS CIEMBRONIEWICZ

WEB SITE
www.krz.com

March 26, 2015

Mayor Michael Brennan
Portland City Hall
389 Congress St.
Portland, Maine 04101

Re: Portland Company Premises
B6 Zoning Change Request

Dear Mayor Brennan:

On March 19, 2015, I provided materials to you relating to the former Portland Company premises ("Premises") demonstrating that a prior Council adopted a height measurement standard for the Premises of 2 feet above flood plain, and not average grade.

I am supplementing that submission with additional materials from the final deliberations of the Planning Board ("PB") following its public hearing on September 14, 2004. Originally the PB and the PB staff had proposed buildings as high as 8 stories from flood plain for the Premises and presented this to a neighborhood meeting on or about September 7, 2004. The heights and massing received significant public outcry and opposition.

As a result, following the public comment and presentation of the height considerations by a consultant to the PB, Mitchell Razor (who explained his work as measured from flood plain on the tapes of the meeting), the PB was presented with two alternatives in the form of an Illustration 33. In the first of these, which I have labeled Exhibit A, the heights would remain at up to 8 stories. In the second, Exhibit B, red blocks are imposed over the previous rendition with lower heights. On each of these illustrations, on the face of the drawings for the area east of Mountfort Street, the parcels carry the legend "**FROM FLOODPLAIN.**" The PB adopted Exhibit B with the lower heights for recommendation to the Council.

The point of these Illustrations is obvious. Starting with the PB and continuing through the public presentations to and consideration by the Council, the measurement from flood plain never changed.

Much is made of a notation on one of the footnotes on one of these drawings "No building mass above 4 floors (45 feet above the average grade) shall be wider than 70 feet parallel with the waterfront nor longer than 140 perpendicular with the waterfront." It seems clear the words "45 feet above average grade" are defining what is meant in terms of the height of a four story building.

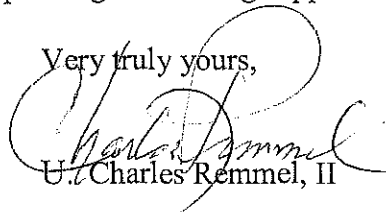
As I indicated in my prior correspondence, and as set out in the Affidavit of a Counselor at the time, the public presentation to the 2004 Council of the height measurement standard from flood plain was clear and unambiguous (see Transcript of public description presented to the public and the Council attached to Gorham Affidavit, Exhibit 3, also annexed hereto).

An argument has been advanced, as I understand it, that because a draft height study was put in the Councilor's package in September of 2004, what the public was presented, and what the Council debated (including updated illustrations) should be ignored. An analogy here is to the legislative process. A bill may be reported out of committee "ought to pass." By the time a bill is printed for debate and adoption by the legislature, the bill may have been reviewed and errors and inconsistencies corrected, clarifications and language improvements made, and cross-references checked and/or added. No one would claim upon adoption by the legislature that the committee bill nevertheless controls. In the same way, a draft report inserted in a Council package, that was not the basis of the public process and Council debate and action, cannot reasonably be claimed to have rendered that entire public process meaningless.

Each Council needs to honor the integrity of prior Councils and the extensive work done in 2004 on what was a publicly controversial topic. That this Council may think differently about an area of the City from what a prior Council had decided, is within a current Council's prerogative. But the starting point is not to deny or attempt to undermine what happened. I would submit a correct approach is to confirm that the 2 feet above flood plain measurement standard was adopted, which would require no change to the Comprehensive Plan, and start from that point.

I would request that this communication be distributed to the other Council members, and also be made part of the record on the pending zone change application.

Very truly yours,



U. Charles Remmel, II

UCR/kaj

Enclosures

cc: Mary Costigan, Esq.

-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT

NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. NO BUILDING MASS ABOVE 5 FLOORS SHALL BE WIDER THAN 70' PARALLEL WITH THE WATERFRONT AND LONGER THAN 110' PERPENDICULAR WITH THE WATERFRONT.
2. 70' WIDE TOWER/BUILDING AREAS ARE A MINIMUM OF 140' APART, MEASURED PARALLEL WITH THE WATERFRONT
3. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION

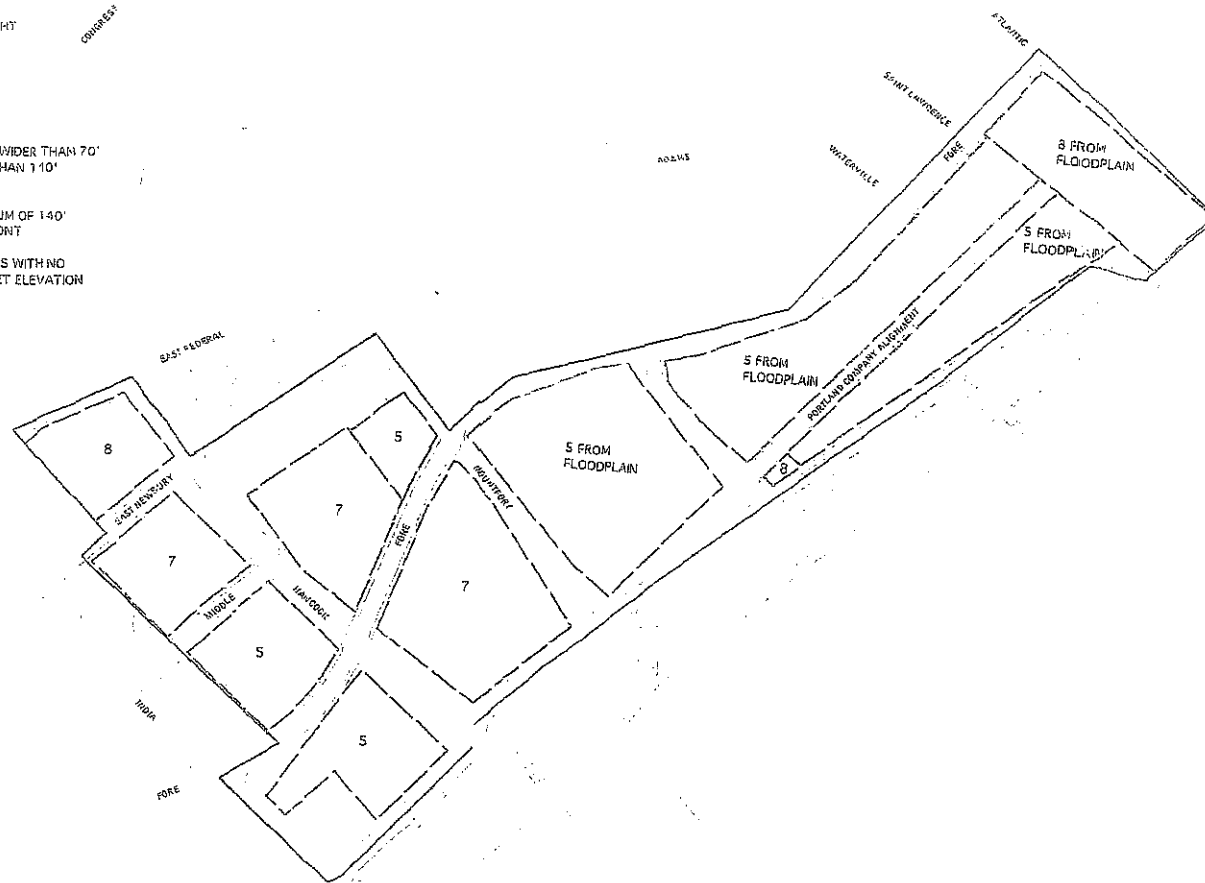


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 August 2004

MRLO, LLC

-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS LOCATED EAST OF HANCOCK STREET OR ITS EXTENSION, NO BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT
2. THE 70 FOOT WIDE TOWERS, AS ALLOWED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PARALLEL WITH THE WATER.
3. NO-BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDINGS ALLOWED ABOVE THE CORRESPONDING FORE STREET ELEVATION
4. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES



ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 August 2004

WRLD, LLC

MAR 26 2015

City Managers Office

Index of Documents Pertaining to the Comprehensive Plan Standard of Measuring Heights from Flood Plain for the Portland Company Site, compiled by Barbara Vestal from public records (except for #12). Prepared 3/23/15.

1. Draft Report, Eastern Waterfront Building Height Study, 25 August 2004, cover showing proposed new massing with Portland Company in the foreground, p. 5 (Upper Fore shadow proposed for 8 floors, including 1-2 story buildings along Fore between Atlantic and Waterville), illustration 32 (that became 33 in later drafts) showing "max 8 floors above floodplain".
2. Excerpts from Planning Report #37-04, submitted to the Planning Board 9/9/04, stating that after the 9/7/04 Munjoy Hill neighborhood meeting hosted by Planning Staff, staff went back and revised the recommended heights downward. It includes attachment 11, showing the heights as advertised for purposes of the public hearing (ranging from 5-8 stories on the Portland Company site) and attachment 12 which is the staff's alternative proposal (ranging from 5-6 stories on the Portland Company site). BOTH ATTACHMENTS STATE "FROM FLOODPLAIN" FOR THE PORTLAND COMPANY SITE. There was a Planning Board hearing on 9/14/04, after which the Planning Board recommended the staff's lower alternative proposal.
3. Copy of a "Neighborhood Petition to City of Portland Planning Board", undated but signed by approximately 390 Munjoy Hill residents calling on the City to reject the height study as presented at the 9/7/04 meeting as "overly ambitious and an affront to neighborhood scale and character" and objecting to obstruction of views among other negative impacts. [Note that this petition preceded a reduction in the building heights from a maximum of 8 stories from flood plain with 1-2 story buildings along Fore St. to a maximum of 6 stories above flood plain with no buildings along Fore Street. This petition was provided to the Council at its October 4, 2004 workshop.]
4. Copy of the revised building height study graphic showing the recommended heights revised downward, with Portland Company in the foreground and no buildings breaking the plane of Fore Street.
5. Copy of City Council Report #43-04, submitted to the City Council 10/1/04 in preparation for its 10/4/04 workshop. Attached as Attachment 7 shows proposed B-6 heights, which is the same as the staff's alternative proposal. It indicates heights are to be measured from flood plain on the Portland Company site. Following this workshop, it was scheduled for a public hearing on October 18th, which was postponed to Nov 1, 2004. There was another workshop the afternoon of November 1, 2004, prior to the evening public hearing.
6. Copy of the Agenda for the evening session, November 1, 2004. The relevant orders were 79, to amend the Comp Plan to adopt the Eastern Waterfront Master Plan (including the building height study) into the Comprehensive Plan, and 80, to adopt a new B-6 zone text and rezone a portion of the study area to that new zone, which would also incorporate the building height overlay for the rezoned portion.
7. Transcript of a portion of the tape of the 11/1/04 City Council Public Hearing. Mayor Nathan Smith asks staff for a clarification of how heights are to be measured. Bill Needelman tells the Council that east of Mountfort Street, building heights are measured from the buildable elevation of 2 feet above flood plain. He refers to "drawing A" and "drawing B" which are attached, both of which contain notes to that effect. Note #2 on A, which is Illustration 33 updated to 1 November 2004, includes the Portland Company site. Earlier in the meeting, City Manager Joe Gray tells the Council that Map A shows the

Comprehensive Plan element (the larger area) and Map B, shows the part proposed to be rezoned to B-6. After a long meeting at which public comment was taken, the Council agreed to postpone Orders 79 and 80 to 11/29, with a workshop on 11/22.

8. Copy of 11/19/04 Memo from Bill Needelman to the City Council with 4 attachments, including a drawing showing the Gorham proposed building heights (on former Att. 7, which shows heights east of Mountfort Street are to be measured from flood plain).

9. Copy of "B-6 Building Height Overlay Map as Amended on 11/29/04", stamped above legend "Approved December 14, 2005", which does include the note "For buildings located east of Mountfort Street (extension), building heights shall be measured from 2 feet above flood plane (sic), not from average grade."

10. Copy of superceded Illustration 33 (the September 2004 version), which erroneously appears in the copy of "Eastern Waterfront Building Height Study," "Draft Final Report" which is posted online. It has 4 notes. The updated Illustration 33, dated 1 November 2004, that was provided to the Council on November 1, 2004 (see #7) has 5 notes, exactly the same 4 plus inserted note #2 specifying building heights are to be measured from 2 feet above flood plain east of Mountfort Street.

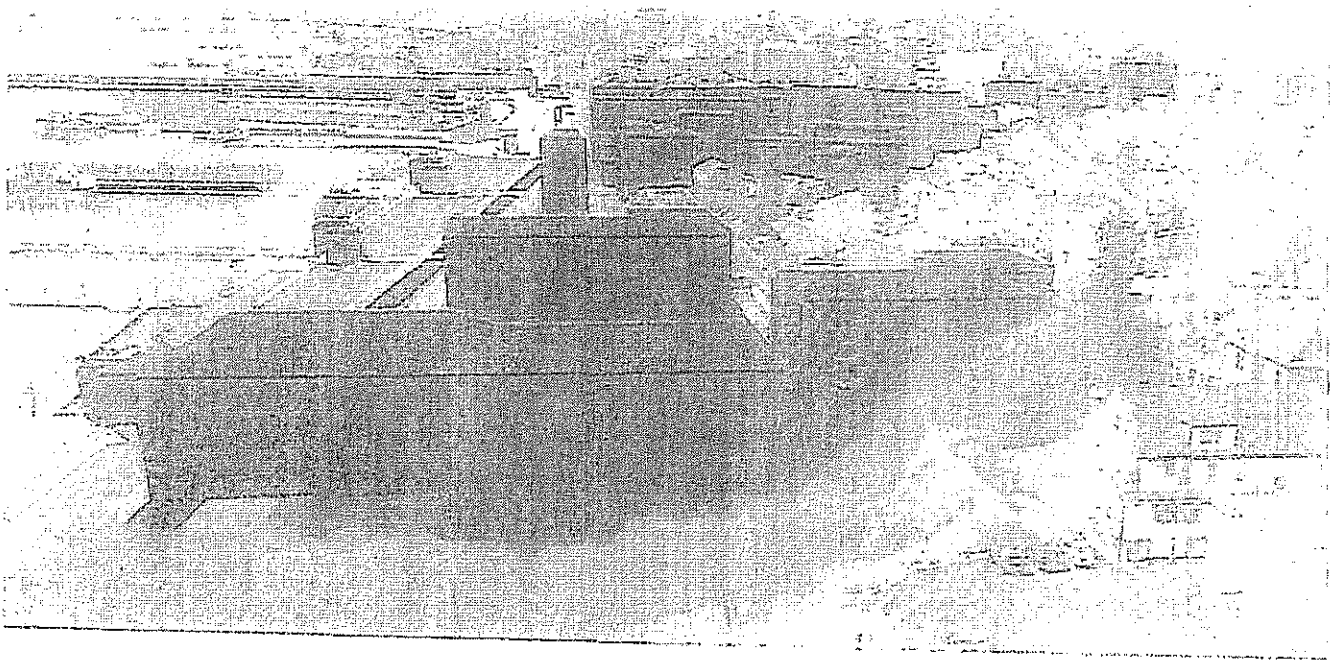
11. Copy of Appendix 5 of the City's Design Manual containing the official "B6 Building Height Overlay & Building Envelopes Map." It contains note 4, "For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade."

12. Representation of potential massing on the Fore Street portion of the site if the flood plain standard or the average grade standard is applied for height calculations, as projected by Architect Rob Whitten. Note the applicant asserted it could build to 65 feet on top of the slope, but has agreed to a restriction that would limit buildings to 35 feet in height (from average grade) within 100 feet of Fore Street. That is what is shown. Keep the Soul of Portland in the Portland Company has continued to assert that measurement from flood plain is the standard that was adopted in 2004 for both the B-6 zone and the larger study area, and is the standard that should apply now. These show two pairs, from the same site with average grade or flood plain measurements. Captions in lower right corner. For full study, see <http://www.soulofportland.org/reportslinks/>.

EXHIBIT 1

Draft Report

Eastern Waterfront Building Height Study
Portland, Maine



25 August 2004

prepared by:

City of Portland Planning Office
MRLO, LLC

This concept build out is just one of hundreds of possible iterations meeting the guiding principles for the project. It was important to develop a build out scheme to visualize the area as redeveloped.

Illustrations 28-31 are all critical for visualizing the concept build out from different vantage points and contexts, but Illustrations 30 and 31, photo simulations are most telling and helpful for understanding how the redeveloped Eastern Waterfront will become a new and vibrant area while respecting the character and needs of adjacent neighborhoods.

FINDINGS

Height

Heights are defined in the study area using the following parameters (one floor or story is considered 11'):

- The overall fabric is three to five stories.
- The maximum heights for the three massing / height shadow zones noted in Illustration 9 and mapped on Illustration 32 are:

Middle / East Federal shadow:	7 – 8 floors
Shipyards shadow:	7 floors
Upper Fore shadow:	8 floors

- Areas of 1-2 stories are possible along the stretch of Fore Street frontage between Atlantic and Waterville, except for four view corridor openings where no building can front Fore Street or break the relative elevation at Fore Street. These three breaks in the possible 1-2 story Fore Street elevation are noted on the Illustration 32, Height Map.
- Any building mass or "tower" above the 5 story limit, where allowed, has a maximum 70' width parallel with the shore and a maximum 140' length perpendicular to the shore. 70' wide towers must be separated by 140'.

Chenopodium

•

[illegible]

PLANNING REPORT #37-06

ZONING MAP AND TEXT CHANGE

From
WPDZ, B-2b, B-5 and WSUZ
To
B-6

IN THE VICINITY OF THE INDIA, HANCOCK, AND FORK STREETS

AND

RECOMMENDATION ON INCLUDING THE
EASTERN WATERFRONT BUILDING HEIGHT STUDY
INTO THE CITY'S COMPREHENSIVE PLAN

CITY OF PORTLAND, APPLICANT

Submitted to:

Portland Planning Board
Portland, Maine

September 9, 2003

Submitted by:
Bill Needelman, Senior Planner

As stated above, the B-6 zone prescribes an urban form of development that is consistent with efficient use of valuable land and a high quality pedestrian environment. Please refer to Attachment 5, *Dimensional Requirements* – pages 8-9.

Setbacks: None required. A maximum setback of 10 feet is allowed with some minor exceptions. Buildings are intended to be built to the street line (within 10 feet) or otherwise meet the building envelope provision described in section 4 below.

Minimum length of building wall along street frontage of lot within 10 feet of the street: 70 % of street frontage or 25% of building perimeter. The 70% building wall along street frontage is a minimum standard to achieve an urban feel. Less than that, surface parking becomes too dominant and disrupts the urban street wall. The 25% building perimeter covers the situation where a building is not long enough to achieve the 70% street frontage standard. It encourages a minimum building wall along the street that would not otherwise be possible if the short side of a building was placed along the street.

Maximum building height: 65 feet unless otherwise governed by a Building Height Overlay Map.

Minimum building height: Newly constructed building shall not have less than 3 stories of habitable floor space within 35 feet of any public street. There are some exceptions such as parking lot booths and in certain cases, expansions of existing buildings. The intent of this provision is to reinforce the urban character of this zone by requiring a minimum level of vertical density enhancing the opportunity for more jobs, street activity and housing than what a single story building offers.

Performance Standards:

The performance standards for the B-6 zone are generally consistent with the boilerplate language found in other commercial districts in the City. As found in the closely related B-5 zone, there is no specific requirement for off street parking in the B-6 draft.

4. B-6 Building Height Overlay and the Eastern Waterfront Building Height Study.

The attached Draft Report of the Eastern Waterfront Building Height Study provides an analysis from the consultant team from Mitchell Rasor Land Design regarding building heights for the Eastern Waterfront area. The Draft Report is an outgrowth of the Eastern Waterfront Master Plan and Staff requests that the Board consider its inclusion (or inclusion as amended) as part of the Master Plan, and therefore, its adoption into the City's Comprehensive Plan.

The Height Study is a portion of the broader rezoning of the Eastern Waterfront, and in future the Height Study will inform rezoning other areas in the Eastern Waterfront as these zones are proposed and refined with the Planning Board.

Additionally, the Eastern Waterfront Height Study underlies suggested building heights within the B-6 zone. As stated in the Introduction, following the Neighborhood Meeting, Staff has reevaluated the recommendations of the August 25 draft of the Height Study, and offers an alternative for consideration.

Neighborhood Meeting:

On September 7, 2004, the Planning Staff hosted a Neighborhood Meeting on Marjory Hill to present the B-6 zone proposal and the Building Height Study. Staff suggests that the Board refer to the Neighborhood Meeting Material included in Attachments 1, 2, and 3 to understand the public's reaction to Building Height Study as presented (from the August 25 draft.)

In summary, very little discussion was generated by the uses proposed in the B-6 zone itself, but there was a clear and large majority of people concerned with the scale of development and the potential to impact public and private views. Given that compatible architecture is one of the signature principles of the Eastern Waterfront Master Plan, Staff took this criticism seriously and revisited the conclusions of the Height Study.

Revised Height Overlay Drafts:

Attachments 11 and 12 are drafts contemplated for the B-6 Height Overlay. Attachment 11 is the version of the Height Overlay that was noticed and posted with the Clerk's Office and is consistent with the recommendations seen in Illustration 33 of the Height Study – the Height Map and Building Envelopes.

Attachment 12 is Staff's alternative amendment to the B-6 Height Overlay. Staff has also provided a draft amendment to Illustration 33 of the Height Study Report for the Board's consideration.

Attachment 12 shows reduced building heights within the proposed B-6 zone. Originally, the zone was envisioned as having a 5-story building fabric, with allowance for 7 to 8 story towers in the identified "view shadows." Attachment 12 proposes 6 story buildings west of Hancock Street, and a 4-story building fabric moving east of Hancock Street. Towers would still be allowed, but at a reduced height for most blocks.

View corridors and building envelopes:

In addition to building heights, the Study recommends specific view corridor protection areas that define building envelopes in the Eastern Waterfront. Again, referring to *Illustration 33*, the dashed lines depict recommended building envelopes that are drawn

around view protection areas (mostly located around existing or proposed street alignments.)

Building Height Amendments

Much of the negative feedback generated by the public at the Neighborhood Meeting was directed at the potential for taller buildings in the easterly portion of the study area – especially on the Portland Company property. The Portland Company property is not proposed for the B-6. Staff's suggestion for the Portland Company property is that the Illustration 33 Height Map be amended to allow far less intrusion of buildings above the plane of Fore Street. Please see the hand drafted amendment of Illustration 33 at the end of the Draft Report (Attachment 14, under a separate staple.) If the Board is comfortable with the number of stories allowed by this amendment, Illustration 33 will be redrafted and other elements of the Report will be adjusted to reflect this amendment.

The suggested building heights shown in Attachment 12 (the amended B-6 Height Overlay) and the amended Illustration 33 of the Height Study report are consistent with the recommendations of the Eastern Waterfront Design Guidelines. While the total aggregated square footage allowed under the suggested amendments would be less than envisioned under the August 25 draft of the Height Study, the amendments would still allow significant redevelopment of public and private land. Such redevelopment would still achieve an urban density and scale that are consistent with the Master Plan.

Height Study Background Excerpted from the Previous Staff Memo

Purpose of the Height Study:

The subject study is intended to provide the graphic specificity to the Master Plan and Guidelines language as the foundation of an enforceable regulatory framework. Staff and the consultant team will use the final draft Building Height Study as the basis for an Eastern Waterfront Building Height Overlay and that would be used to regulate new development in the study area. The first area that would utilize the Height Study is the proposed B-6 zone.

Approach and Methodology of the Study:

The Eastern Waterfront Building Height Study draws directly from the Master Plan and the imbedded Design Guidelines for its foundation and approach. The Height Study builds on the Master Plan by taking a more detailed look at view protection, view creation, neighborhood compatibility, open space, and circulation. In studying the area with these issues in mind, the consultant team has made revisions and amendments to certain elements of the Master Plan concept build out drawings to better achieve the goals and policies of the document.

The consultant team has used existing base topography, building foot prints, and building heights derived from aerial photogrammetry to build a three dimensional computer model of the southeastern portion of Portland's peninsula. The team has layered proposed street layouts from the Master Plan and additional potential circulation into the Portview Company property onto the existing conditions to establish a system of new development blocks and parcels. Using the Master Plan as a basis, the study layers potential development onto the area for analysis. The study refines these blocks through vertical articulation, tower development and street wall setbacks resulting in the graphics shown in the attached draft report.

Study Results:

Please refer to Attachment 14, Draft Report of the Eastern Waterfront Building Height Study, for the complete analysis and results of the Height Study.

The results of the Study, as applicable to regulation of building heights for the study area, are summarized on the 11"x17" sheet labeled *Illustration 33. Height Map and Building Envelopes*.

5. Zone Map and Applicability

The B-6 zone is drafted to implement the Eastern Waterfront Master Plan for upland portions of the study area. Please see Attachment 13 for the proposed zone change map.

Requested Map Expansions:

Attachment 13 shows the same map extent provided to the Planning Board at the August 27th workshop. In the notice and advertisement of the zone change, a map error inadvertently included a portion of the block adjacent to the easterly side of India Street between Fore and Middle Streets (including the Break Away bar and restaurant, Miccuci's grocery, and a portion of the Shipyard Brewery property.) While it was not staff's intent to include these properties within the new zone, owners of the Ship Yard Brewery site have provided a letter of support for the rezoning -- including the areas covered by the map error. Mr. Drew Swenson, representing the Brewery property has indicated to staff that the Shipyard is working with the Breakaway and Miccuci's in a joint development proposal and will ask these adjacent property owners to provide additional support for the rezoning, as advertised.

Additionally, Mr. David McCain, a residential income property owner at the corner of Newbury and Mountfort Streets (R-6 zone currently), has also asked to be included in the B-6 zone. Please see Attachments 8 and 9 to see letters of support and requests for inclusion in the B-6 zone.

6. Policy Supporting Rezoning to B-6:

Eastern Waterfront Master Plan

Attachments:

1. Neighborhood Meeting Agenda
2. Neighborhood Meeting Participation List
3. Neighborhood Meeting Notes
4. B-6 Zone Text, as advertised
5. B-6 Zone Text, Staff suggested edits
6. Development Principles for the Eastern Waterfront
7. Design Guidelines for the Eastern Waterfront (text only)
8. Mr. Drew Swenson letter of support and request for inclusion of additional properties
9. Mr. David McCain letter of support and request for inclusion of additional properties
10. Letters of Concern (building height study)
11. Proposed B-6 Height Overlay Map (as advertised)
12. Revised B-6 Height Overlay Map (as suggested by Staff after hearing public comment at the Neighborhood Meeting)
13. Proposed B-6 Map Change
14. Eastern Waterfront Height Study

Proposed B-6 Height Overlay Map (as advertised)

STILE 1 (3 STORY MAXIMUM)

KEY BUILDING ENVELOPES BY FRONT

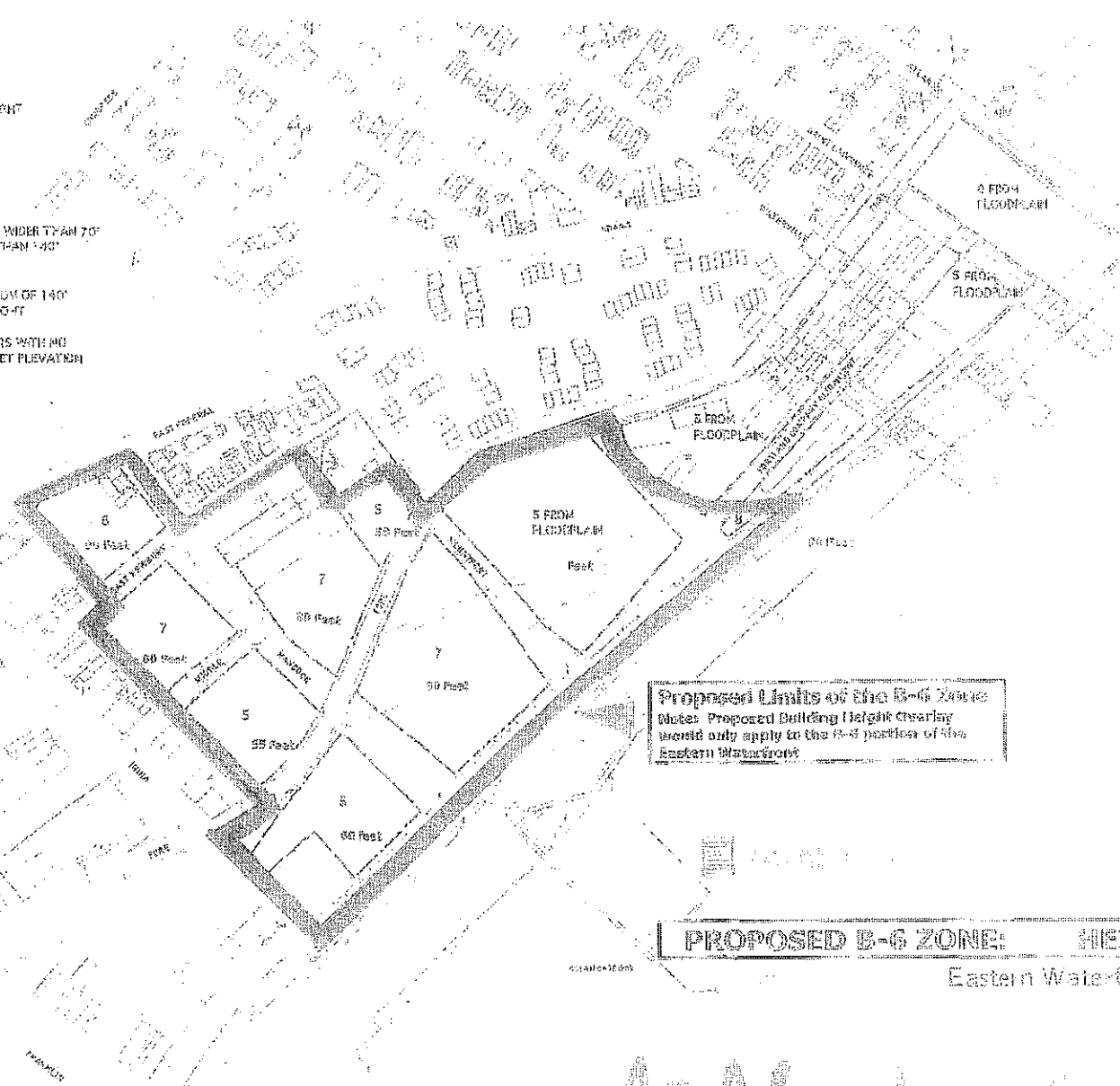
NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. NO BUILDING MASS ABOVE 5 FLOORS SHALL BE WIDER THAN 70' PARALLEL WITH THE WATERFRONT AND LONGER THAN 150' PERPENDICULAR WITH THE WATERFRONT.

2. TO WIDE TOWER/BUILDING AREAS ARE A MINIMUM OF 140' WIDE, MEASURED PARALLEL WITH THE WATERFRONT.

3. TO BUILD FLOODING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.



Proposed Limits of the B-G Zone
Note: Proposed Building Height Overlay
would only apply to the B-G portion of the
Eastern Waterfront

PROPOSED B-G ZONE: HEIGHT OVERLAY ZONE

Eastern Waterfront Building Height Study

Portland, Maine

August 2008

As Adopted

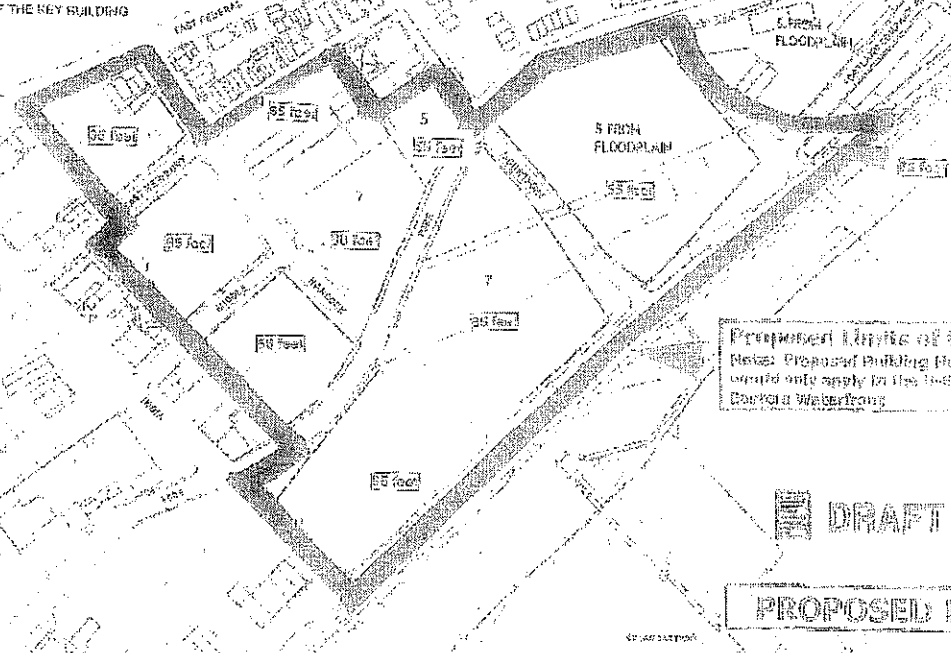
AREA (3 STORY MINIMUM)

KEY: LINE ENVELOPES BY HEIGHT

NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS LOCATED EAST OF HANCOCK STREET ON ITS EXTENSION, NO BUILDING MASS ABOVE 4 FLOORS (AS FELL ABOVE THE AVERAGE GRADE) SHALL BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
2. THE 70 FOOT WIDE TOWERS, AS ALLOWED ABOVE, MUST BE AT LEAST 140 FEET APART MEASURED PARALLEL WITH THE WATER.
3. NO BUILDING ZONES ARE VIEW CORRIDORS WITH NO BUILDINGS ALLOWED ABOVE THE CORRESPONDING FORE STREET ELEVATION.
4. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.



Proposed limits of the B-6 Zone.
Note: Proposed Building Height Overlay
would only apply to the land portion of the
Eastern Waterfront.

DRAFT

PROPOSED B-6 ZONE: HEIGHT OVERLAY ZONE

Eastern Waterfront Building Height Study

Portland, Maine

August 2011

After meeting August 2011

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

- | | | |
|----|----------------------------|---------------------------|
| 1 | <u>William F. Joyce</u> | <u>66 Morning St.</u> |
| 2 | <u>Margaret J. Conner</u> | <u>66 Morning St.</u> |
| 3 | <u>Bridget Joyce Matia</u> | <u>64 Morning St.</u> |
| 4 | <u>Carol Miller</u> | <u>12 Morning St.</u> |
| 5 | <u>J. M. L.</u> | <u>108 East Promenade</u> |
| 6 | <u>W. Redman</u> | <u>108 East Promenade</u> |
| 7 | <u>Aren Treib</u> | <u>104 Baxter Blvd #3</u> |
| 8 | <u>Trancea Mercier</u> | <u>54 Maple St.</u> |
| 9 | <u>Kylea Hill</u> | <u>11 Starboard Dr.</u> |
| 10 | <u>Sally Murphy</u> | <u>19 Munjoy Street</u> |
| 11 | <u>Wing K. Hester</u> | <u>39 Waterline St.</u> |
| 12 | | |
| 13 | | |
| 14 | | |
| 15 | | |

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
	Mark T. Pisoni Mark J. Pisoni	47 Adams St. Portland, ME 04101
	GARY M LITTLE	121 Munjoy South Portland ME 04101
2	Natalie McQuitty	131 Munjoy South Portland, ME 04101
3	Natalie McQuitty	
	IAN FACTOR	5 SHERIDAN ST. PORT. 04101
4	IAN FACTOR	
5	Ben R.	11 Sheridan St Port 04101
6	Ben R.	11 Sheridan St. Portland
7	Paul Pelgith	13 Sheridan St. Portland
8	Ted Rioux	13 Sheridan St.
9	Melissa Harris	13 Sheridan St Portland
10	Craig Coffey	24 Sheridan St. Portland
11	Met Fourn	24 Sheridan St. Portland
12	Brad Nair	24 Sheridan #1 Portland
13	Jennifer Cito	29 Sheridan St. #3 Portland
14	Jack Nelson	29 Sheridan ST #3 Portland
15	Caitlin Shetty	31 Sheridan St. #3 Portland

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

1 Bonnie Blythe	31 Fore St. Portland
2 Meaghan Blythe Cook	31 Fore St Portland
3 Daniel Dickson	31 Fore St., Portland
4 Thom Duffell	31 Munjoy South
5 Wendy Owen	38 Munjoy South
6 Carol Weiss	32 Munjoy South
7 Kim Le Clair	41 Munjoy South
8 Lauren B. Pozzani	133 Munjoy South St
9 Megan Johnson	132 Munjoy South
10 Ray Sullivan	135 Munjoy South
11 Susanne Rabier	4 Munjoy South
12 Michel YABO	9 Munjoy South
13 Cindy Kennedy	14 Munjoy So
14 Jono Litrone	13 Munjoy S.
15 Lynn GMP	19 Munjoy S.
Ka Amanda Dorsey	18 Lambert St.

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

- | | | |
|----|------------------------|-------------------------------|
| 1 | Sara Walsh | 1 Ponce St. Portland, 04101 |
| 2 | Peter S. Hennigan | 2 Ponce St
67 Mountfort |
| 3 | Benjamin Dwyer | 9 Ponce St. Port. ME 04101 |
| 4 | Lynn Davey | 9 Ponce St Port ME 04101 |
| 5 | Margaret Huhlen | 11 Ponce St. Portland ME |
| 6 | Barbara W Coleman | 18 Ponce St Portland ME 04101 |
| 7 | Barbara Alter | 20 Ponce St Portland ME 04101 |
| 8 | Catherine Capron | 55 Mountfort St Portland |
| 9 | Emily Ford | 57 Mountfort St Portland |
| 10 | Rona w castaneda | 65 Mountfort St. |
| 11 | Joseph Earles | 67 Mountfort st. |
| 12 | Antonio Daifonso | 71 Mountfort |
| 13 | Jacqueline A. Lippis | 73 Mountfort St. |
| 14 | Christopher Youngblood | 75 Mountfort St. |
| 15 | Robert Richard | 22 Ponce St |

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
1	Paul Gray	47 Munjoy South
2	Donna Brown	52 Munjoy South
3	Vickie Dakin	61 Munjoy South
4	Jamie Fitzgerald	62 Munjoy South
5	Maria Atkinson	64 Munjoy S.
6	Wichree Smith	116 Munjoy Hill / Munjoy South
7	Vickie Hamilton	115 Munjoy South / Portland, ME. 04101
8	Matt Bol	114 Munjoy South
9	Liam Pule	114 Munjoy South
10	NORMAN McDONALD	110 MUNJOY SOUTH
11	Cynthia S. Muellee	108 Munjoy South
12	Candice Johnson	103 Munjoy South
13	Mike Johnson	103 Munjoy South
14	David A. Lippin	87 Munjoy South
15	Melissa McCaslin	90 Munjoy South Portland

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

1. Narkes Miller	17 Atlantic St 04109
2. Pauline French	14 Sheridan St 04101
3. Ruth Landberg	10 Sheridan St 04101
4. Jan Strommen	11 Sheridan St
5. Jan Gennell	11 Sheridan St
6. Tony Caterino	56 Waterville St
7. Antoinette Citerone	56 Waterville St
8. Marie Gurney	32 Bernard Rd
9. Rita Brown	12 St. Lawrence St
10. Kim Phuan	16 St. Lawrence St
11. Amy Stillwell	30 St. Lawrence St
12. Catha McTeal	28 St. Lawrence St
13. Phil & Ellen	36 St. Lawrence St
14. Paul & Linda	41 St. Lawrence St
15. Victoria Lambert	" " "

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

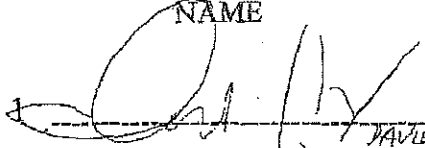
Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME	ADDRESS
1 S. Kenneth Silaswood	99 ATLANTIC ST. #2
2 Michael Peterson	93 ATLANTIC #1
3 (Cen P. Mialla)	59 Atlantic
4 Jay Grant	55 Atlantic St #5
5 7/2 James Wallace	52 Atlantic St #1
6 B. L. Lee	52 Atlantic St
7 Aimee Dehn	50 Atlantic St. #1
8 Mark Kelos	50 Atlantic St. #1
9 Louis Brownstein	75 Wilson #7
10 Scott	13 Atlantic. #3
11 Robert Johnson	154 Congress St #4
12 Peter Martell	60 Atlantic St
13 Allison Carey	60 Atlantic St
14 Lynn Martell	62 Atlantic St
15 Judith Lambert	61 St. Lawrence St

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
1	 DAVID HEMSTROM	61 ST. LAWRENCE
2	Bob Wilson	61 ST. LAWRENCE
3	Christine Sullivan	61 ST. LAWRENCE
4	Patrick Richard	41 ATLANTIC ST.
5	Rachel Burgee	33 Atlantic St.
6	Sheta Temple	29 Atlantic St.
7	Don Courtney	34 ATLANTIC ST.
8	Yvonne Kingman	20 ATLANTIC
9	Kara Williams	20 Atlantic.
10	Timothy Spaldus	28 Atlantic St. #1
11	Lisa Carey	28 Atlantic St #1
12	Robert Noble	19 ATLANTIC ST
13	Samantha Eling	17 Atlantic St. #3
14	Jessica Smith	17 Atlantic St. #1
15	Jonathan Beal	17 Atlantic St. #1

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
1	Daniel Baxter	50 Waterville St 04101
2	Thomas Gale	THOMAS GALE, 50 ST. LAWRENCE ST.
3	76 Wilson St	04101
4	May Williams	58 Wilson St 04101
5	50 Vesper St	04101
6	50 Vesper St	04101
7	Candi Broomhall	16 Wilson St 04101
8	14 W. 1st St	04101
9	14 W. 1st St	04101
10	46 Vesper St	04101
11	50 St. Lawrence St	04101
12	50 St. Lawrence St	04101
13	Joseph Ferrante	11 St Lawrence St
14	Stephanie Bruffand	60 Munjoy St. Apt. 3 04107
15	Russell Smith	65 Wilson St

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
1	Jean E. Macusso	27 Wilson St
2	MARTY MACISSO	27 Wilson St
3	Martin Macusso	27 Wilson St
4	Francine Macusso	27 Wilson St
5	Jonathan Phibiney	46 Morning St.
6	Ron Botting	23 O'BRIEN ST.
7	John Botting	15A OBRION ST
8	Billie Clout	22 O'Brien St
9	Debrah Yale	50 St Lawrence St.
10	Arson Frederick	112 Winter St.
11	Sasha Johnson	5 Monument Street
12	BILL UMBEL	41 WATERVILLE ST
13	Joe Piergrassi	61 Montreal St.
14	Randall Pathken	22 Eastern Promenade
15	Francis Cloutier	Munjoy Street

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
1	Mary J. Guimond	13 WATERVILLE ST
2	Lyle Fildes	13 WATERVILLE ST
3	Julia M. [unclear]	43 OBION ST.
4	Catharina [unclear]	28 WATERVILLE ST.
5	Jim Don	25 WATERVILLE ST.
6	Bob Wye	25 WATERVILLE
7	Pam Chamberlain	23 WATERVILLE ST.
8	John Knight	28 WATERVILLE ST.
9	Tabbarni Hestart	39 WATERVILLE ST.
10	Michael C. Conolly	36 WATERVILLE ST.
11	Rebecca Hitchcock	36 WATERVILLE ST. #4
12	Robert Small	17 WATERVILLE ST 2#
13	Joan Murphy	28 WATERVILLE ST
14	Jack Switzer	41 WATERVILLE ST
15	Doris P. Hyman	62 WATERVILLE ST.

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
1	Tom Aubrey	96 Vesper Apt. 2
2	[Signature]	96 Vesper Apt 1
3	Michelle Dore	96 Vesper Apt 1
4	MANANTHA THACKER	96 Vesper Apt. #2
5	Christina Kerner	96 Vesper #2
6	Cheryl Williams	86 Vesper st.
7	W. Maubus	82 Vesper st #1
8	Sue Moss	80 Vesper St #1
9	Deborah Brooks	76 Vesper st #1
10	Ann Jarstad	79 Vesper St #1
11	Nancy Roddy	77 Vesper St Apt 1
12	GARY MARCESO	69 Vesper St.
13	GAIL BETTS	32 Vesper St.
14	Patricia Curran	16 Vesper St
15	Philip R. Curran	16 VESPER S.T.

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME	ADDRESS
1. <i>[Signature]</i>	22 Cumberland Ave #1 04101
2. <i>[Signature]</i>	22 Cumberland Ave 04101
3. Richard Janis	19 Munjoy St 04101
4. <i>[Signature]</i>	22 Atlantic St 04101
5. Amy Kurtz	28 Eastern Promenade Pld. 04101
6. Bruce Verrill	64 Eastern Prom Pld.
7. <i>[Signature]</i>	10 Morning St. Pld
8. Peter A. Whithers	120 E. Promenade #3
9. Phil Sorenson	93 Morning St.
10. Bertram Mueller	125 Grant St.
11. <i>[Signature]</i>	363 PREBLE STR.
12. Mary Anderson	829 Stevens Ave, Pldg
13. Derek Hanson	829 Stevens Ave, Portland
14. Adam Gamache	1st Brunswick
15. Alicia Johnson	1st Brunswick

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
1	Erik Bjorkdahl	66 Waterville St Apt. 2
2	Adrienne Balzano - Brooks	66 Waterville St #2
3	Cord Blinski	70 Waterville St. #2
4	Jennifer Joudry	65 Waterville St 2nd Fl.
5	Margaret Danahue	70 Morning St.
6	Maria A. Jorgensen	79 Morning St
7	Zeke Jordan	93 Morning St. #1
8	Kathleen Carey Bailey	93 Morning St - #2
9	Joe R. Bruese	11 Moody St. #1
10	Cynthia Stewart	51 Morning St
11	Carol M. Con	51 Morning St #2
12	Mark R. Ross	51 Morning #2
13	John Miller	13 Waterville Street
14	Eric McLeod	36 Waterville St
15	Chris Cormier	16 Morning St #5

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

1	Michael Ralston & Blane	4 St Lawrence St Apt 2
2	Dwone Christian	27 Munjoy St.
3	Tom BROKIEA	413 Munjoy St.
4	Michelle Hume	89 Vesque St
5	Joe L. Day	97 Munjoy St.
6	Paul Moraw	82 Munjoy St.
7	Ann Soler	20 Munjoy St.
8	Samir Jamm	74 MUNJOY ST. #2
9	Sarah Pike	60 Munjoy St #2
10	Tim & Michelle	26 Monument St.
11	Will Vanishoven	10 Munjoy #1
12	Salem Whidden	18 Munjoy St. #1
13	Lisli Schreeman	20 Munjoy St #1
14	Gregory Day	88 Carleton St. #3
15	John Lumb	88 Carleton St. Apt #3

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME	ADDRESS
1. <u>Alexus Bond</u>	<u>12 O'Brien St</u>
2. <u>Elizabeth Dickinson</u>	<u>17 Quebec St</u>
3. <u>Kosta Suli</u>	<u>12 O'Brien St</u>
4. <u>Meeri PAGE</u>	<u>12 O'BRIEN ST.</u>
5. <u>Lori VOORJAS</u>	<u>15 AO'BRIAN ST.</u>
6. <u>Tim Dodson</u>	<u>22 O'Brien St. # 2</u>
7. <u>Gerrie Rogers</u>	<u>22 O'Brien St Portland ME 04101</u>
8. <u>Jeff Bringle</u>	<u>18 O'BRIEN ST #1</u>
9. <u>Felicia Fahey</u>	<u>30 O'Brien, Portland 04101</u>
10. <u>Adam Platti</u>	<u>30 O'Brien, Portland 04101</u>
11. <u>James Zegers</u>	<u>22 O'Brien, Portland 04101</u>
12. <u>Meghan Pradolto</u>	<u>39 O'Brien St. Portland 04101</u>
13. <u>Liesl A. Miller</u>	<u>43 O'Brien St Portland 04101</u>
14. <u>Heath E. NADEAU</u>	<u>63 WILSON APT. B PORTLAND 04101</u>
15. <u>Maria Lord</u>	<u>8 Sherbrooke St Portland 04101</u>

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

- | | | |
|----|--------------------------|-----------------------------|
| 1 | Angela M. Dambrie | 8 Kellogg St., Portland, ME |
| 2 | Stephanie H. Dambrie | 8 Kellogg St., Portland, ME |
| 3 | Sheila Marshall | 5 Kellogg St Portland Me. |
| 4 | Anthony Harrison | 18 Kellogg St |
| 5 | Ell Down | 12 Kellogg St. |
| 6 | Darryl Welch | 18 Kellogg St. |
| 7 | DAN McLAUGHLIN | 25 Kellogg St |
| 8 | Jessica Anthony | 25 Kellogg St. |
| 9 | Ana Dana | 25 Kellogg St. |
| 10 | Christopher D. Griffiths | 25 Kellogg St Apt 2 |
| 11 | Sherry Mitchell | 25 Kellogg St Apt 1 |
| 12 | Brooks Kipp | 29 Kellogg St Apt 2 |
| 13 | CHRIS ROBINSON | 29 KELLOGG ST. Apt. 1 |
| 14 | Gina Fox | 43 KELLOG ST |
| 15 | Bob Van | 43 - K E L L O G S T |

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME	ADDRESS
1. Evelyn A. Kaulon	45 Kellogg St
2. Khadija	47 Kellogg St
3. Muhub. alim	49 Kellogg St.
4. Meela Wiltonato	51 Kellogg St.
5. Edith Lelele	55 Kellogg St.
6. Tuber Rineell	61 Kellogg St. Apt 1
7. Asha Ahmed	618 Kellogg St
8. Wedad Ahmed	53 Munjoy South
9. Jahan. Jarty	38 Kellogg St
10. Kathy Heind	37 Kellogg St apt. 3
11. Eli Johnson	22 Kellogg St.
12. Elizabeth McConnell	18 Kellogg St.
13. Katie Zettek	18 Kellogg St
14. Mary J. Bennett	17 Kellogg St
15. Mary D. Bennett	17 Kellogg St

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
1	Mary DeBenedetto	19 Kellogg St
2	Yvonne Watson	18 Kellogg St
3	Edward J. Downey	24 Kellogg St.
4	Phyllis	24 KELLOGG ST
5	Ann J. Adams	39 Kellogg St.
6	Eric Bonham	17 Ray St
7	Amanda Mahoney	43 St. Lawrence
8	Carol Sullivan	17 Ray St.
9	Deirdre Currie	39 Kellogg St., #2
10	Gayle Atty	5 Kellogg St #1
11	Son Loc	28 Kellogg St
12	Ryan L. Bergman	39 Kellogg St #3
13	Oliver Bradshaw	39 Kellogg St #1
14	Keith Hirtz	47 Vesper St.
15	Katrina Taylor	82 Munjoy Street #2

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

1	<i>[Signature]</i>	32 Turner St.
2	<i>[Signature]</i>	601 Kellogg St #3
3	Laura Buffi <i>[Signature]</i>	600 Kellogg St.
4	Kerrin Cathone	600 Kellogg St.
5	Lucio Home	716 Monument St.
6	<i>[Signature]</i>	84 Monument St.
7	Christopher Bastille Sr	85 Monument St
8	Toni Bastille	85-1 Monument St
9	Janya Desjardins	141 Fore St
10	Ani Bahse	99 Monument St.
11	Troy Keiser	99 Monument St.
12	<i>[Signature]</i>	71 Monument St
13	<i>[Signature]</i>	103 Monument St. #2
14	Jana Lee Wicks	65 Monument St #1
15	Wingina McLean	47 Monument St

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

1. William R. Gorham 34 North St
2. Jay Worman 34 North St
3. Greg Wood 115 main St
4. Jessica Wason 115 main St
5. HUGO GINGER 240 HARVARD ST
6. Alan Thompson 21 Orange St
7. STEPHEN R. SMALL 15 SUMMER ST.
8. Stephen A. Matthews 120 DUNSTON ST.
9. M. S. 240 Court St. UMass NH
10. M. S. 130 Bayview
11. Tressa Pendleton 54 Maple St
12. Robert Vance 88 Fredric St
13. W. R. Brown #10 Rio Vista RR COPE
14. Mary Ann Whitcomb 15 Green St
15. Charles M. M. M.

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

- 1 Rita S. Napoletano 12 St. Lawrence St
- 2 Muriel J. Napoletano 12 St. Lawrence St
- 3 Thomas C. Herbert 4 St. Lawrence St
- 4 Archie Herbert 17 St. Lawrence St.
- 5 Brenda A. Moran 194 Bolton Street
- 6 Warren W. Moran 194 Bolton St.
- 7 Kimberley Geyer 87 Eastern Promenade
- 8 Vera C. Ho 120 Spring St Apt 1
- 9 Wm H. Ly 67 Atlantic Street
- 10 Pat C. Ryan 1 St. Lawrence Street
- 11 James Gifford 108 Cumberland Ave
- 12 Dan Gifford 110 Cumberland Ave
- 13 Judy Gifford 7 Gilbert Ln.
- 14 _____
- 15 _____

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

- | | | |
|----|----------------|---------------------|
| 1 | Anna R. Romano | 36 Morning St. |
| 2 | Mary Mullen | 42 Morning St. |
| 3 | [Signature] | 46 Morning St. |
| 4 | [Signature] | 33 Morning St. |
| 5 | S. McKernan | 33 Morning St. #113 |
| 6 | Ned Hutchings | 27 Morning St. |
| 7 | Allen Lehman | 25 Morning St. @ |
| 8 | | |
| 9 | | |
| 10 | | |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |
| 15 | | |

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
	Grace Cleaves	
1	Grace Cleaves	49 Sheridan #1
2	REBECCA MINNICK	53 Sheridan St. #2
3	MURIEL CHRISTOPHER	24 Sheridan (owner)
4	Keith Petrin	25 Sheridan St #2
5	Samantha Serrano	25 Sheridan St #2
6	Mary Sinclair	25 Sheridan St #2
7	David Serrano	25 Sheridan St #2
8	Jan A. Pedersen	20 Sheridan St.
9	Bernadette Wilson	31 Sheridan #1
10	Kwai Johnson	13 Sheridan #1
11		
12		
13		
14		
15		

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
1	Rebecca Dannelly	123 Munjoy South, Portland, ME 04101
2	Cherylann Pulsoni	47 Adams St Portland, ME 04101
3	Maria-Theresa Pulsoni	11 Adams St Portland, ME 04101
4	May R. Pulsoni	11 Adams St Portland, ME 04101
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

1	<u>Catherine E. Goss</u>	<u>82 Pence St</u>
2	_____	_____
3	_____	_____
4	_____	_____
5	_____	_____
6	_____	_____
7	_____	_____
8	_____	_____
9	_____	_____
10	_____	_____
11	_____	_____
12	_____	_____
13	_____	_____
14	_____	_____
15	_____	_____

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

- | | | |
|----|--------------------|--------------------------|
| 1 | GREGORY W. DISMORE | 20 TURNER ST APT 2 04101 |
| 2 | Joseph A. Balfanz | 39 Munjoy St 04101 |
| 3 | LISA BRADLEY | 52 MOODY ST. 04101 |
| 4 | Brian Verrell | 75 Congress St 04101 |
| 5 | Danise Perea | 25 Fore St Unit 2 |
| 6 | | |
| 7 | | |
| 8 | | |
| 9 | | |
| 10 | | |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |
| 15 | | |

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

1	Nancy Tuttle	13 Atlantic St.
2	Tracy Tuttle	13 Atlantic St.
3	Airi Malinen	16 Atlantic St.
4	Holly Donovan	21 Monument
5	Maryna Gregory	7 Atlantic
6	Regis Cole	22 Atlantic St.
7	Donald C. Cook	92 St. Lawrence St.
8	Joe Morgan	92 St. Lawrence St.
9	Sean Sullivan	90 St. Lawrence St.
10	Matthew Under	41 Monument St.
11	Emmer Ah. Ulla	41 Monument St.
12		
13		
14		
15		

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

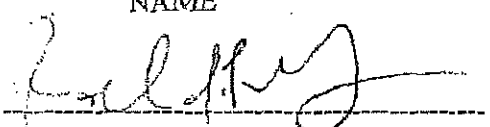
ADDRESS

- | | | |
|----|-----------------------------|--------------------------|
| 1 | Anna L. Romano | 36 Morning St. |
| 2 | Mary M. Mullen | 42 Munjoy St. |
| 3 | Samuel L. Mullen | 46 Munjoy St. |
| 4 | R. L. Mullen | 33 Morning St. |
| 5 | S. McKernan | 33 Morning St. #13 |
| 6 | Ned Hatchery | 27 Morning St. |
| 7 | Allen Lemons | 25 Morning St. # |
| 8 | | |
| 9 | | |
| 10 | | |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |
| 15 | | |

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
1		19 MUNJOY ST #2
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME	ADDRESS
1. <u>Quinn Lowe</u>	<u>53 Monument St, Portland</u>
2. <u>John W. Roke</u>	<u>53 Monument St. Portland</u>
3. <u>J. Roke</u>	<u>83 St Lawrence St Portland</u>
4. <u>Bishali Mangani</u>	<u>26 Monument St.</u>
5. <u>Lacey Kennard</u>	<u>1 Monument St. Portland, ME</u>
6. <u>Waseem Ali</u>	<u>12 Kellogg St #1 Portland</u>
7. <u>Waseem Ali</u>	<u>12 Kellogg St HI Portland, ME</u>
8. _____	_____
9. _____	_____
10. _____	_____
11. _____	_____
12. _____	_____
13. _____	_____
14. _____	_____
15. _____	_____

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

	NAME	ADDRESS
1	Michael R. Hunt	12 Vespa Street
2	Eileen L. Harris -	34 Munjoy Street
3	Don Merrill	62 Atlantic St
4	Rebecca Norton	60 Atlantic St
5	Don Merrill	60 Atlantic St.
6	John Bishop	73 Atlantic St.
7	John Bishop	75 ATLANTIC
8	Deanne Bull	68 ATLANTIC
9	Robert Bull	68 ATLANTIC ST.
10		
11		
12		
13		
14		
15		

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

1	<u>Linda Lajori</u>	<u>16 St. Lawrence St.</u>
2	<u>Heath Trethen</u>	<u>3 St. Lawrence ^{Shubert} St</u>
3	<u>Mark Chase</u>	<u>62 St. Lawrence St</u>
4	<u>Elizabeth Sheehan</u>	<u>16 St. Lawrence St.</u>
5	<u>Richard Lajori</u>	<u>16 St. Lawrence St.</u>
6	<u>Nage Gray</u>	<u>75 Congress St.</u>
7	<u>Nathaniel Dudley</u>	<u>75 Congress St.</u>
8	<u> </u>	<u> </u>
9	<u> </u>	<u> </u>
10	<u> </u>	<u> </u>
11	<u> </u>	<u> </u>
12	<u> </u>	<u> </u>
13	<u> </u>	<u> </u>
14	<u> </u>	<u> </u>
15	<u> </u>	<u> </u>

Neighborhood Petition to City of Portland Planning Board

We, the citizens of Munjoy Hill, petition the City of Portland to reject the proposed B6 zone related to the Eastern Waterfront Master Plan. The proposed zone change, as presented at the neighborhood meeting Sept. 7th, is overly ambitious and an affront to neighborhood scale and character.

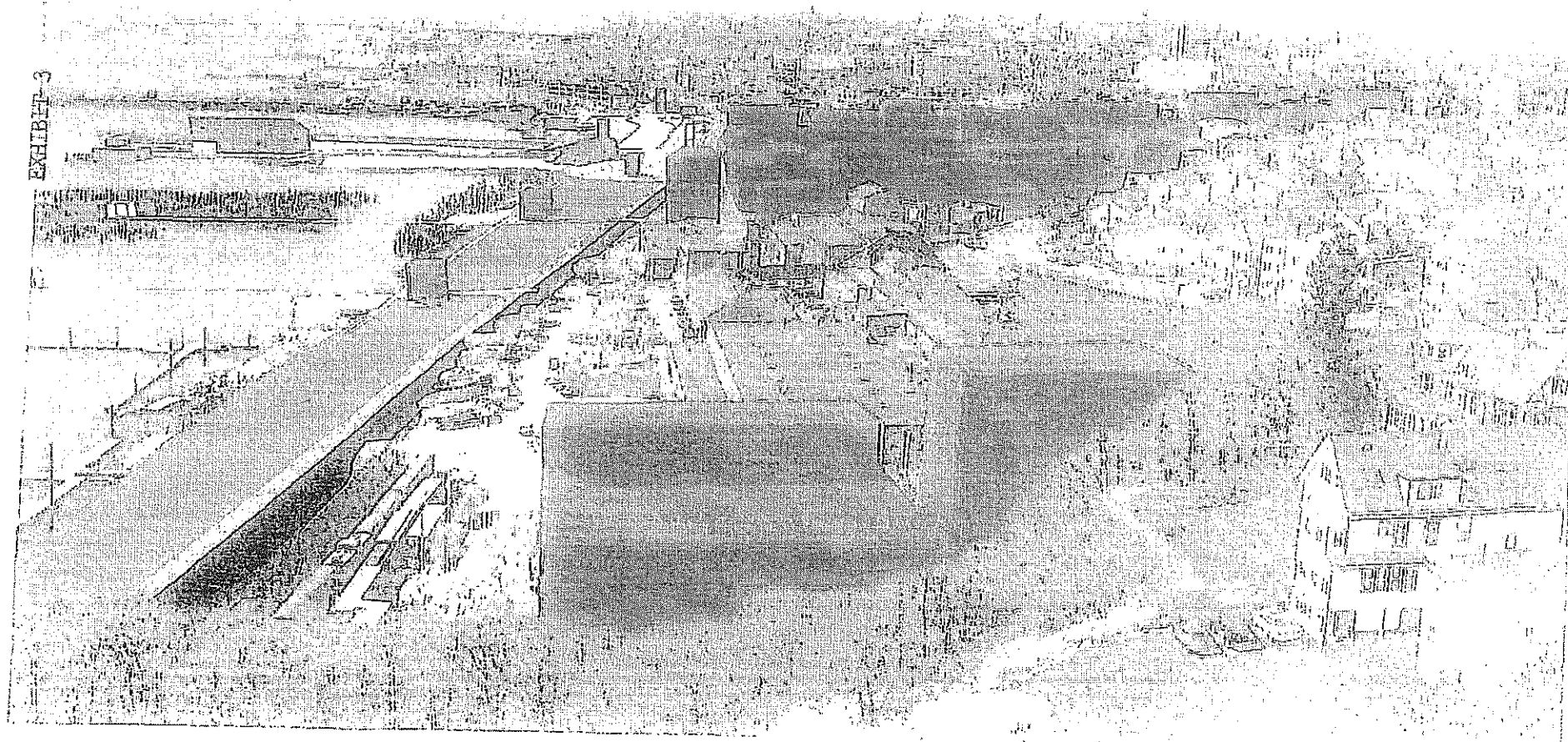
Our objection is that the zone as proposed will negatively impact the abutting residential zone, by the obstruction of views, impact on property values, increase traffic congestion and additional parking issues, increase municipal services, decrease the number of affordable housing units, and clearly diminish the quality of life.

NAME

ADDRESS

- | | | |
|----|-------------------|---------------|
| 1 | Andrew Clough | 78 Munjoy St. |
| 2 | Stephanie Varesco | 83 Munjoy St. |
| 3 | Bobby Varesco | |
| 4 | Christa Farr | 86 Munjoy St. |
| 5 | | |
| 6 | | |
| 7 | | |
| 8 | | |
| 9 | | |
| 10 | | |
| 11 | | |
| 12 | | |
| 13 | | |
| 14 | | |
| 15 | | |

EXHIBIT-3



CITY COUNCIL REPORT #43-04

RECOMMENDATION ON INCLUDING THE
EASTERN WATERFRONT MASTER PLAN AND BUILDING HEIGHT STUDY
INTO THE CITY'S COMPREHENSIVE PLAN

AND

ZONING MAP AND TEXT CHANGE

From
WPDZ, B-2b, B-5 and WSUZ
To
B-6

IN THE VICINITY OF THE INDIA, HANCOCK, AND FORE STREETS

CITY OF PORTLAND, APPLICANT

Submitted to:

Portland City Council
Portland, Maine

October 1, 2004

Submitted by:

Portland Planning Board
Bill Needelman, Senior Planner

1. Introduction

The Portland Planning Board and the Planning and Development Department recommend the following actions to the Portland City Council for the Eastern Waterfront: (1) Adoption of the Eastern Waterfront Master Plan as part of the Comprehensive Plan, and (2) Adoption of the proposed B-6 *Planned Mixed-Use Urban District Zone*. These closely related actions are the culminating steps in the Eastern Waterfront Master Plan process that began in 1999.

The City Council has previously accepted the Master Plan report. The Planning Board and the Community Development Committee have recommended the Master Plan's formal inclusion into the City's Comprehensive Plan. The Planning Board is also recommending that The Master Plan be amended to include the Eastern Waterfront Building Height Study.

The B-6 *Planned Mixed-Use Urban District Zone* is a new zone that would replace portions of B-5, B-2b, WPDZ, and WSUZ zones in the upland sections of the Eastern Waterfront. The intent of the B-6 is to encourage mixed-use development on upland portions of the Study Area in a manner consistent with the Eastern Waterfront Master Plan.

As part of this process, the City has engaged landscape architect, Mitchell Rasor, MRLD, LLC, to conduct a building height study for the entire Eastern Waterfront area. The immediate use of this study is to provide a basis for regulating building heights in the B-6. In the future, the Height Study would be the policy document underlying the rezoning of other properties in the Eastern Waterfront.

In addition to the two actions noted above, the proposed zone map shows a small change at the eastern extent of the study area. This is a minor map change from Waterfront Special Use to Recreation Open Space. The land impacted by this change is State of Maine owned land that currently is used for the Eastern Promenade Trail. The properties owned and operated by the abutting Portland Yacht Company would not be affected.

2. Materials Provided

The attached material represents the compilation of several years worth of planning for the Eastern Waterfront. While much of this material has been presented to the Council at previous meetings, there is a considerable amount of new material. The following outline provides a guide to the packet components with notations pointing out issues of particular importance.

a. Council Report #43-04 Text

This report is drawn largely from the staff Planning Board Report #37-04 that was reviewed at Planning Board Public Hearing on September 14, 2004. After a brief synopsis of issues for the Council's consideration, the

report outlines the policies behind both the Comprehensive Plan amendment and the B-6 rezoning.

Included with the attachments to this report are several documents of importance to the Council's review. The attachments are outlined and briefly described below.

b. Planning Board Report #55-02

The first attachment, Planning Board Report #55-02, is the original text of the report underlying the Board's September 10, 2002 recommendation of the Eastern Waterfront Master Plan as part of the Comprehensive Plan. Please refer to this document for greater detail relating to the Master Plan process and for a summary of the Master Plan itself.

c. B-6 Zone Text

Attachment 2 is the advertised text of the B-6 zone. This text includes suggested edits from the Planning Board.

d. Letters of Support and Requests for Inclusion in the B-6 zone

Just prior to the Planning Board's Public Hearing, two neighboring property owners provided letters supporting the rezoning and requesting inclusion in the new zone. Please refer to Attachments 3 and 4. The Board did not provide an opinion on these requests and they are forwarded to the Council for consideration.

e. Letters of Concern and Citizen Petition

During the Planning Board's review of the proposed rezoning, several Munjoy Hill area residents provided letters of concern - primarily with regards to the Building Height Study. These letters are included as Attachment 5 and are in addition to a petition that circulated after the September 7, 2002 Neighborhood Meeting held on Munjoy Hill. The petition is not included with this report, but will be provided under a separate staple at the Council's October 4, 2004 workshop. Between three and four hundred residents signed the petition.

Please note that the letters and the petition all preceded a reduction in the building heights. The current Building Height Study and the related B-6 Building Height Overlay Map, as recommended by the Planning Board, reflect the lower building heights. Staff has received no letters regarding building heights since the Board's recommendation.

f. Proposed Zone Map Change

Attachment 6 shows where the B-6 would apply in the Eastern Waterfront. As noted above, the map change also includes a small change from WSUZ to ROS at the boundary between the Portland Company and the Eastern Promenade Park.

g. B-6 Building Height Overlay Map

The fold out map at the end of this report, Attachment 7, is the draft B-6 Building Height Overlay Map. This map is similar to the B-3 Downtown Height Overlay Map and would regulate building heights for the B-6 zone. Please note that specific limitations beyond the simple height allowances are included in the general notes on the map. These provisions concern limits on the footprints of "towers" (buildings over 4 stories) in certain areas of the B-6.

Another important consideration for the Overlay Map is view corridor protection. In preserving and creating views to, from and within the study area, the overlay map includes "key building envelopes" dictating where street walls would develop along critical corridors.

The Building Height Overlay Map is derived from and is consistent with a similar drawing for the larger study area included in the Building Height Study Report - *Illustration 33, Height Map and Building Envelopes*.

h. Eastern Waterfront Master Plan Report

The full and amended report of the *Master Plan for Redevelopment of the Eastern Waterfront* is provided with this report. The Master Plan document itself has changed little since the Council accepted the report in June of 2002. Since that time, the Master Plan has been recommended by the Planning Board (September 2002) and amended as described below. Firstly, the text has been updated to reflect the recent work undertaken by the Planning Board. More significantly, the appendices have been updated to include the following:

Appendix A.	Definitions
Appendix B.	Public Process Timeline and Narrative
Appendix C.	Eastern Waterfront Design Guidelines
Appendix D.	Eastern Waterfront Building Height Study

The appendix documents are integral to the Master Plan and will be critical to successfully understanding and implementing the policies of the report. The Council has seen the Design Guidelines as part of the previous review of the Master Plan and its text and graphics have not changed.

Appendix B, *Public Process Timeline and Narrative*, has been recently updated and documents the considerable public process undertaken, by the Waterfront Master Planning Committee, the Community Development Committee, the Planning Board, the Council, and community at large.

Appendix D, the *Eastern Waterfront Building Height Study*, is new work and represents the major amendment to the Master Plan. The Planning Board's recent recommendation amends the Master Plan to include the Height Study and further recommends its inclusion into the Comprehensive Plan.

3. Outstanding Issues For the Council's Consideration

As alluded to above, several issues remain outstanding and Staff requests clarification from the Council.

a. Requested Map Expansions

The first issue involves the Map Extent of the B-6 Zone. Attachment 6 shows the same map extent recommended by the Planning Board. As stated in Attachment 3, Mr. Drew Swenson, representing the Shipyard Brewery property, has requested that all of the brewery holdings in the area be included in the B-6. Additionally, Mr. Swenson indicates to staff that the Shipyard is working with the Breakaway bar and Miccuci's (located between Fore and Middle Streets along India Street) in a joint development proposal and will ask these adjacent property owners to provide additional support for the rezoning, and inclusion of their properties in the zone. No supporting letters from the Breakaway and Miccuci's owners have yet been provided.

Additionally, Mr. David McCain, a residential income property owner at the corner of Newbury and Mountfort Streets (R-6 zone currently), has also asked to be included in the B-6 zone. Please see Attachment 4.

b. 44 Federal Street, Ron Gan Proposal

Currently, the Planning Board is reviewing a proposal by Ron Gan for a four-story R-7 residential project at 44 Federal Street – at the far northerly extent of the proposed B-6 boundary. After the Planning Board's recommendation, Mr. Gan indicated that his project would be put at risk by the taller building heights permitted by the Height Overlay Map. (The Height Overlay would allow 65-foot buildings on the Gan lot and on the lots and blocks directly south of 44 Federal Street.)

Mr. Gan requests dropping the building heights on the two northerly most blocks along the westerly edge of Hancock Street, or taking these parcels out of the B-6.

The impacted lots would include the Village Café lot and a portion of the block just south of the Eastern Cemetery.

In light of these issues addressed by Mr. Gan, Staff will provide alternative language for the Council's consideration at the October 4th workshop. The options available are to (1) keep the building heights at 65 feet, (2) limit how much of the lots could be allowed over 45 feet, as done elsewhere in the proposed Building Height Overlay, (3) drop the total building heights for these blocks to 45 feet - as currently zoned, or (4) redraw the B-6 Map to exclude these blocks.

4. Eastern Waterfront Master Plan Adoption

In late 1999, the Eastern Waterfront Development and Master Planning Committee was appointed to undertake the task identified in Waterfront I of establishing a development plan for the Eastern Waterfront. The resulting *Eastern Waterfront Master Plan* recommends rezoning the upland portions of the study area to allow mixed-use development in a form that is compatible with the surrounding commercial and residential neighborhoods.

Additionally, the Master Plan calls for development to occur at an urban scale in a manner that adds significant value to both City and private properties in the area. Having a clear understanding of potential building massing and heights are critical elements in achieving these goals successfully. The attached Building Height Study, Appendix D, supplies this understanding.

Please refer to the attached Master Plan report, and the analysis included with Attachment 1, Planning Board Report #55-02. As stated above, the City Council accepted the Master Plan report in June of 2002. The Planning Board recommended the plan's adoption into the Comprehensive Plan in September of that same year and has since been working on the associated zoning. With the Board's recent recommendation of the Building Height Study and the B-6 Zone, the Board and the Planning Staff request the Master Plan's formal adoption.

Building Height Study Amendment:

Summary

The attached Draft Report of the *Eastern Waterfront Building Height Study* provides an analysis from Mitchell Rasor Land Design the consultant team, regarding building heights for the Eastern Waterfront area. The Draft Report is an outgrowth of the Eastern Waterfront Master Plan and the Board recommends its inclusion as part of the Master Plan, and therefore, its adoption into the City's Comprehensive Plan.

The Eastern Waterfront Height Study, as an amendment to the Master Plan, would be applied in two phases. Firstly, in the short-term, the Height Study has been incorporated into the dimensional requirements of the B-6 zone. Those portions of the study area that lie within the B-6 would be covered by a *B-6 Building Height Overlay*

Map – similar to the *Downtown Height Overlay Map* currently in place for the Downtown B-3 Zone.

In the long-term, should the Council contemplate rezoning for the Portland Company properties, the Height Study would be the policy document in the Comprehensive plan that would inform such a rezoning. At this time, no rezoning for the Portland Company is requested.

It is also important to note that the Height Study does not suggest or recommend changes to the building height requirements for the other waterfront zone (the Port Development Zone) in the study area.

Building Height Study Background Material

a. Purpose of the Height Study:

The subject study is intended to provide the graphic specificity to the Master Plan and Guidelines language as the foundation of an enforceable regulatory framework. Staff and the consultant team have used the final draft Building Height Study as the basis for an Eastern Waterfront Building Height Overlay and that would be used to regulate new development in the study area. The first area that would utilize the Height Study is the proposed B-6 zone.

b. Approach and Methodology of the Study:

The Eastern Waterfront Building Height Study draws directly from the Master Plan and the imbedded Design Guidelines for its foundation and approach. The Height Study builds on the Master Plan by taking a more detailed look at view protection, view creation, neighborhood compatibility, open space, and circulation. In studying the area with these issues in mind, the consultant team has made revisions and amendments to certain elements of the Master Plan conceptual build-out drawings to better achieve the goals and policies of the document.

The consultant team has used existing base topography, building footprints, and building heights derived from aerial photogrammetry to build a three dimensional computer model of the south eastern portion of Portland's peninsula. The proposed street layouts from the Master Plan are layered with potential circulation into the Portland Company property onto the existing conditions to establish a system of new development blocks and parcels. Using the Master Plan as a basis, the study layers potential development onto the area for analysis. The study refines these blocks through vertical articulation, tower development and street wall setbacks resulting in the graphics shown in the attached draft report (Appendix D.)

c. **Recommended Building Heights:**

When referring to the Height Study document in Appendix D, the 11x17 fold out drawings at the end of the report best illustrate the impact of proposed building heights to the surrounding areas.

In summary, the Study recommends six story buildings west of Hancock Street. Moving to the eastern side of Hancock Street, the Study recommends mostly four story buildings, with limited allowance for taller "towers" in certain areas. The final graphic, *Illustration 33*, shows how these heights would be applied on a block-by-block basis.

d. **View corridors and building envelopes:**

In addition to building heights, the Study recommends specific view corridor protection areas that define building envelopes in the Eastern Waterfront. Again, referring to *Illustration 33*, the dashed lines depict recommended building envelopes that are drawn around view protection areas (mostly located around existing or proposed street alignments.)

5. B-6, Planned Mixed Use Urban District Zone

The B-6 Zone is proposed to implement the policies of the Master Plan on the upland portions of the study area. The zone text is drafted so that it could be potentially adapted to other peninsula districts that have adopted master plans for redevelopment. Please refer to Attachment 2 for the current zone text and Attachment 6 for the proposed zone map.

a. **Current Zoning:**

Current zoning for the site is a combination of Waterfront Port Development Zone (WPDZ), B-2b Community Business Zone, Waterfront Special Use Zone (WSUZ), and B-5 Urban Commercial Mixed use Zone.

The current mix of zoning in the area, in aggregate, allows many of the same uses proposed by the B-6. The rationale for implementing new mixed-use zoning for the upland portions of the Eastern Waterfront is to promote a unified development pattern within the district as envisioned in the Eastern Waterfront Master Plan.

b. **B-6 Zone Summary**

As quoted from the purpose section of the draft B-6 text:

The purpose of the B-6, Planned Mixed Use Urban District Zone is to establish a zoning district for urban areas in which the City has adopted master plans for

redevelopment. Certain districts, including the Eastern Waterfront area, lie at the perimeter of the established downtown and contain significant redevelopment opportunities. The B-6 zone encourages these districts to acquire a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. The zone promotes a wide range of uses to achieve twenty-four hour urban vitality and shared use of parking infrastructure.

Summary of Zoning Text:

The following comments supplement the actual text included in Attachments 2. The summarized comments below highlight some of the major issues addressed in the zoning, but are not intended to fully capture all of the issues found in the complete text.

The B-6 text reflects the intended policy of creating an urban mixed-use district in the Eastern Waterfront. In order to accomplish this goal, the proposed zoning requires multi-story buildings built close to the street with a minimum of surface parking. The vision is to create an urban district in which buildings, not parking lots, dominate the streetscape. The zoning doesn't set a maximum cap on development (except for maximum height) rather it sets a minimum level of development. Efficient use of land, high density of development and vertical densities are important urban concepts reflected in the text.

Suggested Uses

Please refer to the following sections of Attachment 2 to review the suggested uses for the Zone. Permitted uses are found on pages 1 to 4 and Conditional uses are found on pages 4 to 7.

Industrial uses: The B-6 is a mixed-use zone; therefore some industrial uses are appropriate. The size of such uses is limited to a maximum building footprint of 15,000 sq. ft. This forces larger industrial uses to be vertical rather than horizontal, conserving valuable land and reducing the overall impact of industries in an urban setting.

Parking: All parking is drafted as a conditional use. Without this provision, surface parking (the least expensive form of parking) could dominate the streetscape. This section recognizes that many parcels will develop incrementally over time and a phased approach may be needed to fully achieve the goals of this provision.

Permanent Surface Parking Not Allowed: The proposed zoning substantially restricts or prohibits permanent surface parking in the B-6 zone. At the Board's suggestion, permanent surface parking is not considered a permitted or conditional use in the zone. Furthermore, parking is not allowed as a permitted accessory use to other permitted uses in the zone. The result of these restrictions

is that surface parking is treated as a "transitional" use and subject to conditional use review. Please see below

In previous draft text, Staff suggested that permanent lots of less than 25 spaces be allowed to provide a measure of flexibility within the parking regulation of the zone. Previous versions of the B-6 text also suggested that permanent surface parking be allowed, conditioned that such parking not dominate the streetscape (not to exceed 1/3 of lot street frontage, with the remaining 2/3 of lot frontage occupied by buildings served by such parking.) The Planning Board found that all permanent surface parking ran contrary to the goals of the Master Plan.

Transitional Surface Parking: When a development does not provide enough building frontage to fill the street or its lot, it may qualify for transitional surface parking. To address the transitional parking standard, the site needs to be designed to accommodate the development of a future building (or parking garage) on the site. The goal of this section is to insure that present development does not foreclose the opportunity for future development to meet the minimum building wall provision. Another provision requires the building owner in a lease shall reserve the right to relocate surface parking into a parking garage. This provision requires that the site be designed to accommodate, as market conditions change, permitted development in the future.

Parking Structures:

Parking Structures are allowed as a conditional use and, at the Board's suggestion, Staff has provided specific conditions and waivers relating to mixed-use requirements.

Prohibited uses – page 7

Note: All drive-up facilities are prohibited except for interior drive-up bank facilities as a conditional use.

Dimensional Requirements

As stated above, the B-6 zone prescribes an urban form of development that is consistent with efficient use of valuable land and a high quality pedestrian environment. Please refer to Attachment 2, *Dimensional Requirements* – pages 8-9.

Setbacks: None required. A maximum setback of 10 feet is allowed with some minor exceptions. Buildings are intended to be built to the street line (within 10 feet) or otherwise meet the building envelope provision described in section 4 below.

Minimum length of building wall along street frontage of lot within 10 feet of the street: 70% of street frontage or 25% of building perimeter. The 70% building

wall along street frontage is a minimum standard to achieve an urban feel. Less than that, surface parking becomes too dominant and disrupts the urban street wall. The 25% building perimeter covers the situation where a building is not long enough to achieve the 70% street frontage standard. It encourages a minimum building wall along the street that would not otherwise be possible if the short side of a building was placed along the street.

Maximum building height: 65 feet unless otherwise governed by a Building Height Overlay Map. The B-6 Building Height Overlay Map is included in Attachment 7.

Minimum building height: Newly constructed buildings shall not have less than 3 stories of habitable floor space within 25 feet of any public street. There are some exceptions such as parking lot booths and in certain cases, expansions of existing buildings. The intent of this provision is to reinforce the urban character of this zone by requiring a minimum level of vertical density thereby enhancing the opportunity for more jobs, street activity and housing than what a single story building offers.

Staff originally drafted this requirement at a 2-story minimum.

Performance Standards:

The performance standards for the B-6 zone are generally consistent with the boilerplate language found in other commercial districts in the City. As found in the closely related B-5 zone, there is no specific requirement for off street parking in the B-6 draft.

c. B-6 Building Height Overlay and the Eastern Waterfront Building Height Study.

Please refer to the Building Height Study discussion in Section 4, above.

d. Zone Map and Applicability

The B-6 zone is drafted to implement the Eastern Waterfront Master Plan for upland portions of the study area. Please see Attachment 6 for the proposed zone change map.

6. Policy Supporting Rezoning to B-6

The following text is excerpted from previous memos on the B-6 zone and provides policy background for the proposed rezoning.

Eastern Waterfront Background:

Starting in late 2000, the City engaged in an extensive public process to plan the future of the City's Eastern Waterfront. The resulting plan, the Eastern Waterfront Master Plan, proposes dramatic changes to this portion of Portland's Historic waterfront. Envisioned development includes the construction of the Ocean Gateway facility, expanded shallow draft berthing facilities, open space development, and significant opportunity for mixed-use development on adjacent public and private lands.

The Master Plan encourages a mix of uses in a pedestrian friendly, urban district. Marine berthing, transportation, and open space development are envisioned for the waterfront properties of the study area. Parking, retail, office, and residential development are shown on upland parcels. All development is planned to be served by new or extended public streets and should respect and integrate with surrounding areas including the Casco Bay Island Ferry Terminal, Munjoy Hill, India Street and the Old Port.

In the Eastern Waterfront, the proposed B-6 text would apply only to the upland portions of the Master Plan study area, leaving piers and waterside lands under the regulation of waterfront zoning. The proposed rezoning map and applicability issues are further discussed below.

A brief outline of waterfront policy preceding the Master Plan follows as background.

Waterfront I.

The Mayor's Waterfront Task Force Phase One Report dated January 1999 is the first major policy document working specifically with land use in the subject area. Following on the findings of the Passenger and Cargo Study, the "Waterfront I" report recommended policies and physical improvements relating to the exodus of BIW and the reuse of City land in the Eastern Waterfront. While these recommendations concentrate on the marine activities and infrastructure associated with relocating and improving passenger facilities at State Pier and the Atlantic Pier (Pier 2), the recommendations also cite the need for new and expanded development. The Phase One report further recommended future studies to evaluate economic development opportunities for the waterfront and the need for a "development plan" for the Eastern Waterfront specifically. The report stated that rezoning should be analyzed and considered as part of these future studies.

Waterfront II

The Final Report of the Mayor's Waterfront Task Force on Economic Development: *Investing in our Working Waterfront*, October 2000, picked up

where Waterfront I left off. The "Waterfront II" report included four economic related recommendations: (1) Encourage private and public waterfront investment, (2) Create a Waterfront-Centered economic development outreach program, (3) Support current use taxation, and (4) Support clean, working harbors.

The first recommendation included a specific provision that "recommends the development of waterfront parking garages not located on the water-side (with appropriate streetscape for retail or office uses) to supplement or replace the surface parking which serves the area. The intent is to free up precious waterfront land for productive use while relieving the parking problems for waterfront commerce.."

The Waterfront II final report was adopted by the City Council as part of the Comprehensive Plan.

7. Neighborhood Meeting:

On September 7, 2004, the Planning Staff hosted a Neighborhood Meeting on Munjoy Hill to present the B-6 zone proposal and the Building Height Study. Please refer to the Neighborhood Meeting Material included in Appendix 2 of the Master Plan to understand the public's reaction to Building Height Study as presented at the neighborhood meeting.

In summary, very little discussion was generated by the uses proposed in the B-6 zone itself; but there was a clear and large majority of people concerned with the scale of development and the potential to impact public and private views. Given that compatible architecture is one of the signature principles of the Eastern Waterfront Master Plan, Staff took this criticism seriously and revisited the conclusions of the Height Study. The amended Master Plan document, including Appendix D – the Building Height Study, and the B-6 Building Height Overlay Map, Attachment 7, have been reduced to reflect public concern over view impacts.

8. Planning Board Recommendation:

As stated above, the CDC and Planning Board both recommended adoption of the Master Plan in 2002. With the Building Height study complete, the Planning Board recommends the formal adoption of the Master Plan into the Comprehensive Plan, and the adoption B-6 zone as an implementation of the Master Plan.

The current zoning for the Eastern Waterfront is a mix of waterfront and commercial zones. The Waterfront zones (the Port Development Zone and the

Special Use Zone) restrict the mixed-use development envisioned by the Master Plan. Additionally, the existing commercial zones (the B-5, Mixed Use Urban Commercial Zone, and the B-2b, Community Business Zones), while closer to the intent of the Master Plan, are inconsistent with either the use expectations and/or the urban form of development recommended by the Master Plan Committee, the CDC and the Planning Board.

The B-6 zone would guide development on the upland portions of the study area to be consistent with the vision of the Master Plan.

On September 14 of this year, the Planning Board voted on two motions regarding rezoning for the Eastern Waterfront. The first was a 5-2 (Beal and Patterson, opposed) vote recommending the Eastern Waterfront Height Study for inclusion in the City's Comprehensive Plan (as an amendment to the Eastern Waterfront Master Plan.) The two Planning Board members who voted against the Height Study supported a taller version of the Height Study as had been previously submitted.

The second motion was a unanimous (7-0) recommendation of the B-6 rezoning of the upland portions of the Eastern Waterfront, including the B-6 Height Overlay Map.

The Height Study, and the corresponding B-6 building height regulatory map, were somewhat scaled back in response to a broad-based and consistent negative reaction by the public to the earlier version which showed taller buildings. Munjoy Hill neighbors were largely supportive of the reduced version, which still retains urban scale density that is consistent with the Eastern Waterfront Master Plan policies.

9. Actions for the City Council

- 1) Adoption of the Waterfront East Plan as an element of the Comprehensive Plan.
- 2) Amendment to the land use zone adopting the B-6 zone text and map amendment. (A summary of all proposed amendments/revisions to the Planning Board recommendations will be provided at the public hearing.)

Attachments:

1. Planning Board Report 55-02, Text Only
2. B-6 Zone Text
3. Mr. Drew Swenson letter of support and request for inclusion of additional properties
4. Mr. David McCain letter of support and request for inclusion of additional properties
5. Letters of Concern (building height study)
6. Proposed B-6 Map Change
7. Proposed B-6 Height Overlay Map

Also Provided

Eastern Waterfront Master Plan Report, including:

- | | |
|-------------|--|
| Appendix A. | Definitions |
| Appendix B. | Public Process Timeline and Narrative |
| Appendix C. | Eastern Waterfront Design Guidelines |
| Appendix D. | Eastern Waterfront Building Height Study |

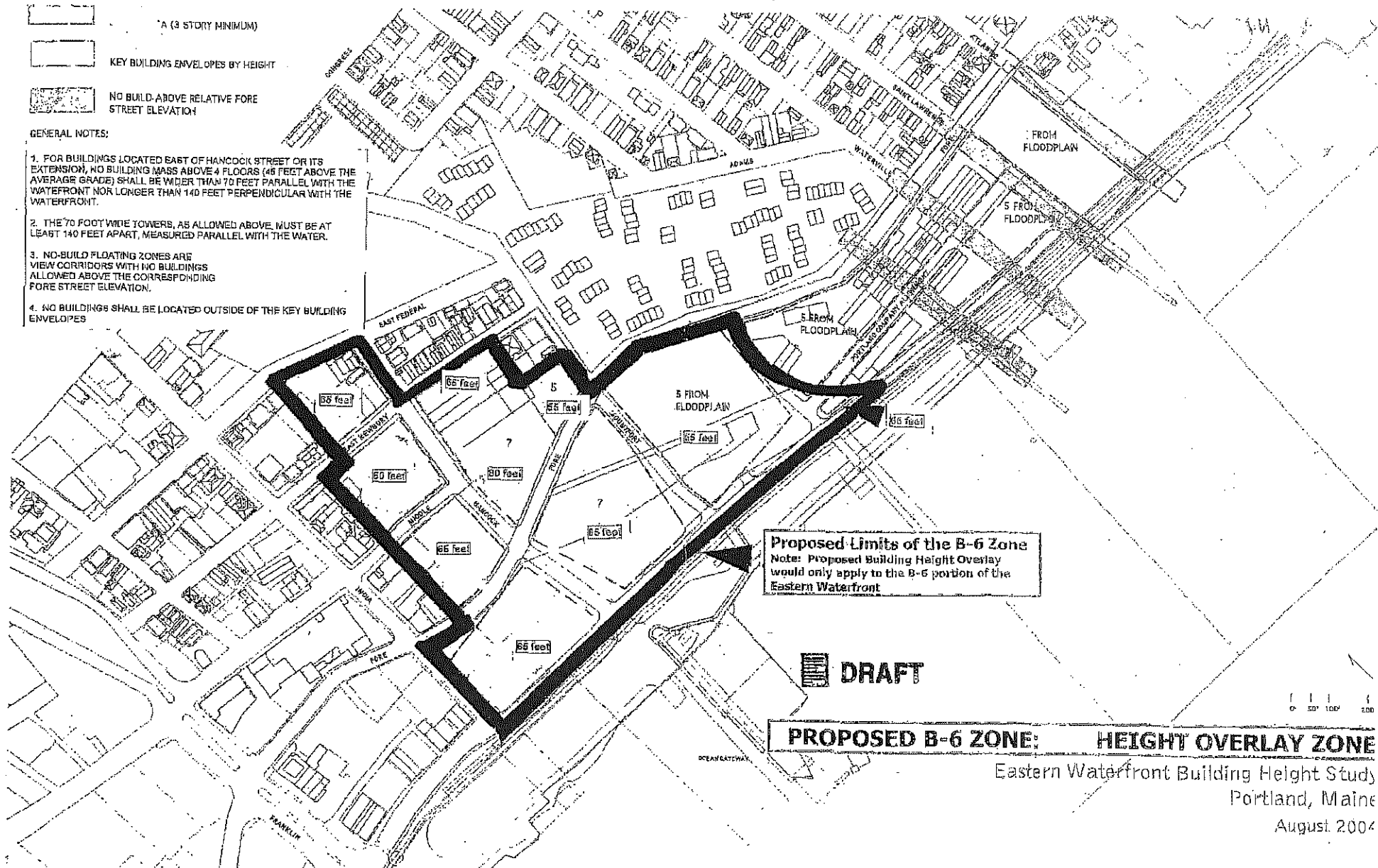
- A (3 STORY MINIMUM)

 KEY BUILDING ENVELOPES BY HEIGHT

 NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS LOCATED EAST OF HANCOCK STREET OR ITS EXTENSION, NO BUILDING MASS ABOVE 4 FLOORS (48 FEET ABOVE THE AVERAGE GRADE) SHALL BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
2. THE 70 FOOT WIDE TOWERS, AS ALLOWED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PARALLEL WITH THE WATER.
3. NO-BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDINGS ALLOWED ABOVE THE CORRESPONDING FORE STREET ELEVATION.
4. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES



NATHAN H. SMITH - MAYOR
WILLIAM E. COCHRAN - 1ST
HARRY A. CROSBY - 2ND
CORYN L. LUTMAN - 3RD
JAMES E. COHEN - 4TH

DANIEL R. CLONIER - 5TH
HILDA BUNO - 6TH
RONALD W. M. NAVODOMSKI - 7TH
REYNA QUINONES - 8TH

AGENDA
CITY COUNCIL MEETING
EVENING SESSION
NOVEMBER 1, 2004

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 Nathan H. Smith, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

SPECIAL MEETING:

(Tab 1) Special Meeting of the Corporator of the Downtown Portland Corporation - Sponsored by Nathan H. Smith, Mayor.

The City Council is the Corporator of the Downtown Portland Corporation. The annual meeting of the Corporator of the Downtown Portland Corporation will be held by the City Council at 7:00 p.m., November 1, 2004, in City Council Chambers. This is a requirement of the Corporation's bylaws. An opportunity for public comment will be given.

Agenda:

1. Receipt of the Annual Report from the Board of Directors
2. Transaction of such other business as may come before the meeting
3. Receipt of public comment

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 2) October 18, 2004

PROCLAMATIONS:

APPOINTMENTS:

Order 89-04/05 Order Appointing Warden for District 5, Precinct 3 for
(Tab 3) November 2, 2004 - Sponsored by Linda C. Cohen, City Clerk.

This order appoints Charles Lane as Election Warden at the Unitarian Universalist Church for the November 2, 2004 election.

Seven affirmative votes are required for emergency passage after public comment.

**Order 90-04/05
(Tab 4)**

Order Appointing Directors of the Portland Widows' Wood Society - Sponsored by Nathan H. Smith, Mayor.

Under the terms of its by-laws, the Portland City Council is asked annually to appoint Directors of the Portland Widow's Wood Society, which the Legislature incorporated in 1850 to provide fuel aid to "destitute widows, poor families and orphans during the winter months". In 1970 the Widow Woods Society adopted by-laws under which the City Council annually appoints the Directors, to be not less than seven in number and at least three who are not employees of the City. This order authorizes the appointment of the following people to the Portland Widows' Wood Society for a period of one year, and expiration of terms would be November 1, 2005.

Henry L. Donovan	15 Clifford Street
Robert Duranleau	389 Congress Street
Michael J. Francouer	33 Autumn Lane
Cheryl Hallett, Treasurer	99 Concord Street
Everett P. Ingalls	125 Neal Street
John C. Knox	44 Bramblewood Drive
Thomas M. Pierce	41 Bayview Drive
Paul S. Stevens	32 Pleasant Street

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

**Order 91-04/05
(Tab 5)**

Order Approving License Agreement with Maine Turnpike Authority Re: Brighton Avenue Underpass – Sponsored by Joseph E. Gray, Jr., City Manager.

This order approves a License Agreement with the Maine Turnpike Authority for purposes of public safety communication and traffic signaling adjacent to the Maine Turnpike at the Brighton Avenue Underpass.

Order 93-04/05
(Tab 6)

Order approving Underground Utility Agreement to Central Maine Power RE: Portland International Jetport -- Sponsored by Joseph H. Gray, Jr., City Manager.

This order approves an easement for Central Maine Power (CMP) to run an underground power line for the Portland International Jetport navigational equipment for the FAA.

The new navigational equipment for the runway CAT II navigational system needs an underground power line. CMP requires an easement so nothing can be built over the power line. This easement is near the water district compost site, west of the Turnpike.

The City Council must vote on all Jetport easements.

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

LICENSES:

Order 93-04/05
(Tab 7)

Order Granting Municipal Officer's Approval of Lacune, Inc. d/b/a Walter's Café, 15 Exchange Street. Restaurant with Liquor. Change of Ownership of Existing Business. Sponsored by Linda C. Cohen, City Clerk.

The ownership of Walter's Café is changing. The new owners of the business plan to manage the restaurant as it is currently operating at 15 Exchange Street.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

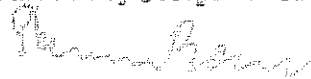
COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 79-04/05
(Tab 8)

Order Amending City's Comprehensive Plan Re: Eastern Waterfront Master Plan, including Eastern Waterfront Height Study - Sponsored by Joseph H. Gray, Jr., City Manager.



In June of 2002, after a recommendation by the Community Development Committee, the Council voted to accept the Eastern Waterfront Master Plan and forwarded the document to the Planning Board to draft the implementing rezoning. The Council decided to hold off on the formal adoption of the Master Plan into the Comprehensive Plan until such time that the zone language was complete. In November 2002, the Board voted to recommend the Master Plan to the City Council and then began the task of drafting zoning for the district.

Over the past two years, the Board has reviewed multiple drafts of new zones for both the uplands and waterside of the district, as well as for the Portland Company properties.

Additionally, the Board has recently completed the important work of engaging and reviewing an Eastern Waterfront Building Height Study as a foundation for regulating the scale of new development in the district.

With the building height study complete, the Board recommends the formal adoption of the Master Plan into the Comprehensive Plan, and the adoption of the upland (north of Commercial Street) portion of the rezoning.

At the October 18th Council meeting this item was postponed to this evening's meeting to coincide with consideration of Order 80-04/05. Five affirmative votes are required for passage after public comment.

**Order 80-04/05
(Tab 9)**

Amendment to Zoning Map Re: Rezoning From WPD, WSU, B-5 and B-2b to B-6 (Waterfront Port Development, Waterfront Special Use, Business - 5 and B-2b to Business -6) and from WSUZ to ROS and Adoption of Zoning Text Change Vicinity: Eastern Waterfront – Sponsored by the Planning Board, Orlando Delogu, Chair.

The current zoning for the Eastern Waterfront is a mix of waterfront and commercial zones. The waterfront zones (the Port Development Zone and the Special Use Zone) restrict the mixed-use development envisioned by the Master Plan. Additionally, the existing commercial zones (the B-5, Mixed Use Urban Commercial Zone, and the B-2b, Community Business Zones), while closer to the intent of the Master Plan, are inconsistent with either the use expectations and/or the urban form of development recommended by the Master Plan Committee, the CDC and the Planning Board.

The B-6 zone would guide development on the upland portions of the study area to be consistent with the vision of the Master Plan. The waterfront portions of the study area are not included within the proposed B-6; and zoning for Ocean Gateway, Maine State Pier, and the Portland Company properties would not change without further action by the Council.

The height study, as an amendment to the Master Plan, would be applied in two phases. In the short-term, the height study has been incorporated into the dimensional requirements of the B-6 zone.

Those portions of the study area that lie within the B-6 zone would be covered by a B-6 Building Height Overlay Map - similar to the Downtown Height Overlay Map currently in place for the Downtown B-3 zone.

On September 14 of this year, the Planning Board voted on two motions regarding rezoning for the Eastern Waterfront. The first was a 5-2 vote recommending the Eastern Waterfront Height Study for inclusion in the City's Comprehensive Plan (as an amendment to the Eastern Waterfront Master Plan).

The second motion was unanimous (7-0) recommendation of the B-6 rezoning of the upland portions of the Eastern Waterfront, including the B-6 Height Overlay Map.

This item must be read on two separate days. It was given a first reading on October 4th. At the October 18th meeting, this was postponed until tonight's meeting so that residents of the East End could be notified. Five affirmative votes are required for passage after public comment.

PUBLIC HEARINGS:

ORDERS:

Order 94-04/05
(Tab 10)

Order to Approve a Parking Lease at the Spring Street Garage for 10 Parking Spaces - Sponsored by Joseph E. Gray, Jr., City Manager.

This order requests approval of a parking lease at the Spring Street Parking Garage for 10 parking spaces between the City and The Kimball Building, LLC. The developers are creating residential condominiums in the former Bernie's Fashions building and need 24/7 parking for the residents to meet Planning Board approval.

The City shall lease the Parking Spaces to the tenant at market rates as set by the City from time to time, presently Ninety (\$90.00) Dollars per month per space.

This is a 3 year lease and Council approval is needed for leases that cannot be cancelled within 30 days.

Corporation Council has approved the lease and the Parking Division recommends approval.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

**Order 95- 04/05
(Tab 11)**

Amendment to Portland City Code Article III, Division 4 – R-3 Residential Zone 14-90(e) and (f) – Sponsored by the Planning Board, Orlando Delogu, Chair.

The Department of Planning and Development has received requests for additions to homes in the R-3 zone, which are not allowed or hampered due to the maximum lot coverage and minimum lot width standards required in that zone. An evaluation of the Residential R-3 zone found there are many existing lots that do not meet the zone's minimum lot size standards and many buildings that exceed the twenty-five (25%) maximum lot coverage standard for the zone. The Planning Division is proposing to raise the maximum lot coverage from 25% to 35% and to reduce the minimum lot width from 75 to 65 feet in the Residential R-3 zone.

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

**Order 96- 04/05
(Tab 12)**

Amendment to Portland City Code, Chapter 14, Article III Zoning: Definitions 14-47, Conditional or Contract Zoning 14-63, 65 - Sponsored by the Planning Board, Orlando Delogu, Chair.

On April 8, 2004, the Maine Supreme Court remanded Winter Danforth Corp. v. City of Portland to Portland to take to the Planning Board rather than the Zoning Board of Appeals the question of whether the Winter Danforth Corporation violated its contract zone agreement with the City. The alleged violation that initially raised this issue was the use of an apartment leased by the owner of the Winter Danforth Corporation to house overflow

guests from the Danforth Inn at 163 Danforth Street. That bed and breakfast facility is owned by the Corporation. Gary Wood, Corporation Counsel, recommended that the Zoning Code be amended in response to the court case as follows:

1. Amend the definitions for bed and breakfast, hotel, inn, lodging house, motel, and tourist home to clarify that no owner or operator may, for direct or indirect remuneration, arrange or provide housing accommodations for potential guests, unless such a facility is authorized under the Portland Land Use Code to offer such accommodations.
2. Add enforcement procedures pursuant to Maine Statutes, 30-A M.R.S.A. Sec. 4452, within the contract and conditional zones section of Portland's Zoning Code, which incorporate notice requirements and thirty days for the owner/operator to cure a violation; and
3. Amend the contract and conditional zone section to clarify that subsequent zoning text revisions apply to existing contract zone agreements except where it is expressly modified in a contract or conditional zone agreement.

The back-up information applies to this amendment and the Amendment proposed in order 97.

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

Order 97- 04/05
(Tab 13)

Order Authorizing Amendment to City Code Sec. 14-49 (Zoning Map Amendment) RE: Conditional Rezoning for Property in the Vicinity of 163 Danforth Street - Sponsored By the Planning Board, Orlando Delogu, Chair.

This order amends the contract zone agreement between the City and the Winter Danforth Corporation to incorporate the proposed revisions for definitions and enforcements noted above in order 96.

The back-up information is with Order #96.

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

Order 98- 04/05
(Tab 14)

Order Authorizing Amendment to the Portland City Code Sec. 14-49 (Zoning Map Amendment) RE: Conditional Rezoning For property in the Vicinity of Morrill's Corner/Allen Avenue

Sponsored by Planning Board, Orlando Delogu, Chair.

The Planning Board is forwarding a neutral recommendation (3-3 vote) to the City Council regarding a proposal by Packard Development for a conditional rezoning that would allow a retail shopping center at Morrill's Corner. The development parcel is currently zoned B-2 Business, I-L Industrial, and R-5 Residential. In order to proceed with the development proposal, the applicant has requested a conditional rezoning, and has also made a proposal for the purchase of two City-owned parcels of land.

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

November 1, 2004, Portland City Council, Public Hearing, Close of Public Comment,
Beginning of Council Debate
(Hour 2:03:40)

Mayor Nathan Smith: Get to those first just to kind of start with a clear understanding. One of the questions has already just been answered or clarified. It sounds like the Cloutier Amendment now better understood I think by a number of us, is, is off the table. That's number one. The question was is it off the table, it's off the table. I think another point that was raised was about the Abyssinian Church and the concern that the zoning might reach over into the area where that Church is located. Correct me if I am wrong but as I understand it, it does not reach over there. There was talk about that but it does not go that far, so the Abyssinian Church is not within the area of being re-zoned. The third question that I have written down here is it was a question about how to measure height and how was it measured and I wonder which one of you wanted to explain that provision briefly please for all of us.

William Needleman, Planning Board Staff: Generally in the city the zoning administrator measures height from average grade. If a sloping site is developed then the zoning administrator takes the elevation of each four corners of the building, creates an average and then measures up from there. Because of the extreme changes in grade we find on the eastern waterfront, for, these are included in the notes on both drawing A and on Drawing B, note number 2 on Drawing A and note number 5 on Drawing B. East of Montfort Street building elevations are tied to two feet above flood plain which is the buildable elevation. So there would be no chance of a developer grabbing a foothold on upper Fore Street and averaging grade and going up higher.

Mayor Nathan Smith: Gotcha yup

William Needleman, Planning Board Staff: That ok?

Mayor Nathan Smith: Yes, that's very helpful. Thank you. I think I've got the factual questions. Everything else is policy I guess that was brought up and council can address that in due course. Councilor O'Donnell we've had a suggestion from Councilor Cloutier to get the amendments that people want to make on the table so we at least know what we are talking about. Do you mind if we fish for that for a moment? And I guess my question is and we could start with Councilor Gotham. Let's start with what you intend to propose as an amendment and I would ask anyone else if you intend to propose an amendment that you would do that at this time as well so we can have them all kind of out there and react accordingly in our comments.

AREA (3 STORY FLOOR IS)

KEY BUILDING ENVELOPES BY HEIGHT

NO BUILD ABOVE RELATIVE FORT
STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2' ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM. WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

3. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.

4. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORT STREET ELEVATION.

5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

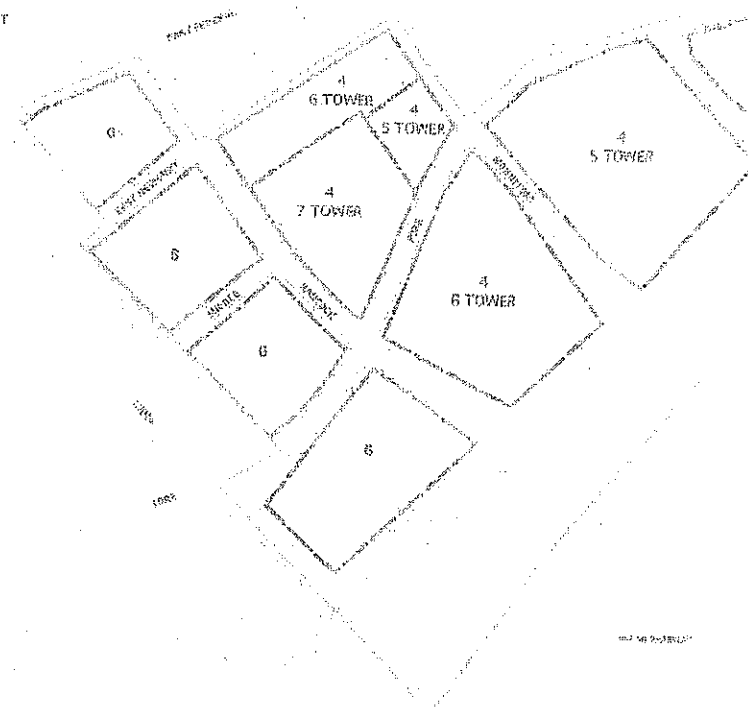


ILLUSTRATION 32:
HEIGHT MAP & BUILDING ENVELOPES
Eastern Waterfront Building Height Study
Portland, Maine
1 November 2004

304011.001

-  FLOOD AREA (U.S. 2000 FLOODING)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE RISE STREET ELEVATION

General Notes:

1. For any block that is designated as a receiving area for towers, no building mass above four stories (45 feet above average grade) shall be wider than 70 feet parallel with the waterfront nor longer than 140 feet perpendicular with the waterfront.
2. Within each block, the 70 foot wide towers, as defined above, must be at least 140 feet apart measured parallel with the waterfront.
3. No buildings shall be located outside of the key building envelope, "build-to" lines.
4. For buildings located east of Mountfort Street, building heights shall be measured from 2 feet above flood plane, not from average grade.

Proposed limits of the B-6 Zone
 Note: Proposed Building Height Overlay Zone would only apply to the B-6 portion of the Eastern Waterfront

Proposed B-6:

BUILDING HEIGHT OVERLAY MAP

Eastern Waterfront Building Height Study
 Portland, Maine
 13 September 2004

BARTON, MALCOLM

Memorandum
Department of Planning and Development
Planning Division



To: Mayor Smith and the Portland City Council

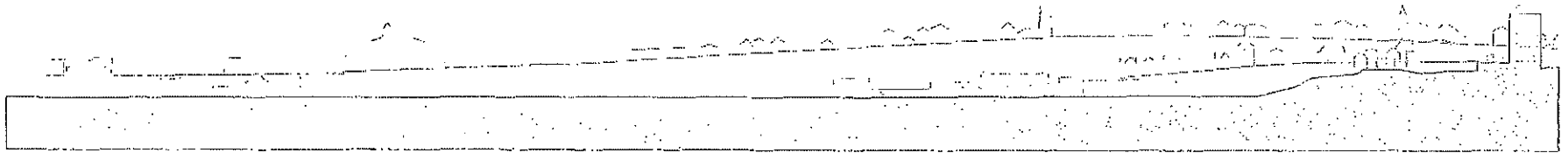
From: Bill Needelman, Senior Planner

Date: November 19, 2004

Re: Additional Material for the Eastern Waterfront Rezoning Workshop

As support for the November 22 workshop on Eastern Waterfront rezoning, Planning staff is providing the following additional material. This material will be helpful during both the on-site building height demonstration and the following workshop. Please find with the previously circulated material the following material:

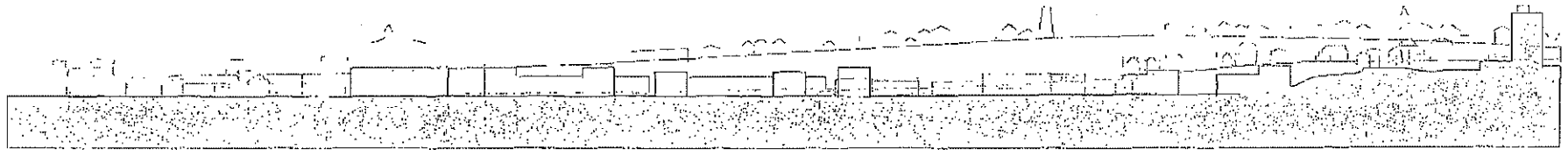
1. East / West Section: This drawing is taken from the Building Height Study and reflects the Planning Board's recommendation.
2. Potential Building Extensions: As suggested at the previous Council meeting, drawing 2 shows a maximum number of building extensions on those block where they are allowed. The higher number represents the highest point of the building. Again, these numbers reflect the current recommendation.
3. Aerial Photo: The attached aerial photo shows the approximate locations and heights of the City "lift trucks" that will be in place prior to the workshop on November 22. The trucks will be in position from 3:00 to 4:30pm.
4. Councilor Gorham Amendment: Drawing 4 shows the amended building heights forwarded by Councilor Gorham at the previous Council meeting.



SECTION E EXISTING - EAST / WEST (from Congress Street and Fore Street Elevations)

PROPOSED B5

100' 200' 300' 400' 500' 600' 700' 800' 900' 1000'



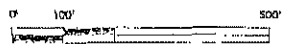
SECTION E PROPOSED - EAST / WEST (with Congress Street and Fore Street Elevations)

EASTERN WATERFRONT HEIGHT STUDY

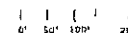
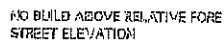
Portland, Maine

13 September 2001

MRLD, LLC



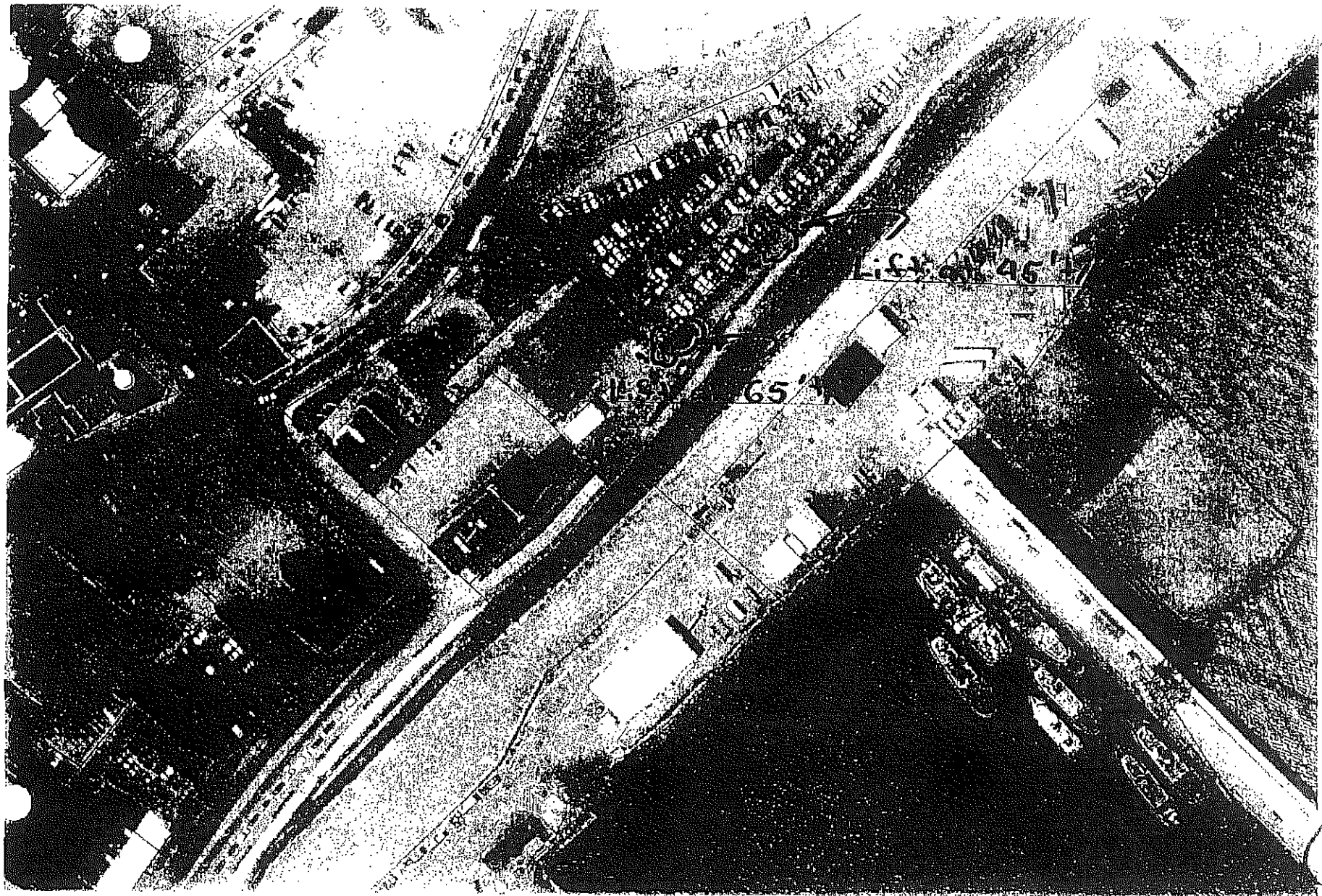
①



B-6 ZONE

WRLD, LLC

②



3

Block Number

STUDY AREA (3 STORY MINIMUM)

KEY BUILDING ENVELOPES BY HEIGHT

NO BUILD ABOVE RELATIVE FORD STREET ELEVATION

General Notes:

1. For any block that is designated as a redeveloping area for towers, no building mass above four stories (48 feet above average grade) shall be wider than 70 feet parallel with the waterfront nor longer than 140 feet perpendicular with the waterfront.
2. Within each block, the 70 foot wide towers, as defined above, must be at least 140 feet apart, measured parallel with the waterfront.
3. No buildings shall be located outside of the key building envelope, "build-to" lines.
4. For buildings located east of Mountfort Street, building heights shall be measured from 2 feet above flood plane, not from average grade.

Proposed limits of the B-6 Zone

Note: Proposed Building Height Overlay Zone would only apply to the B-6 portion of the Eastern Waterfront.

AMENDED BY: *Councilor Sorhain*

Proposed B-6:

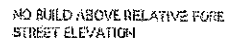
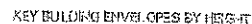
BUILDING HEIGHT OVERLAY MAP

Eastern Waterfront Building Height Study

Portland, Maine

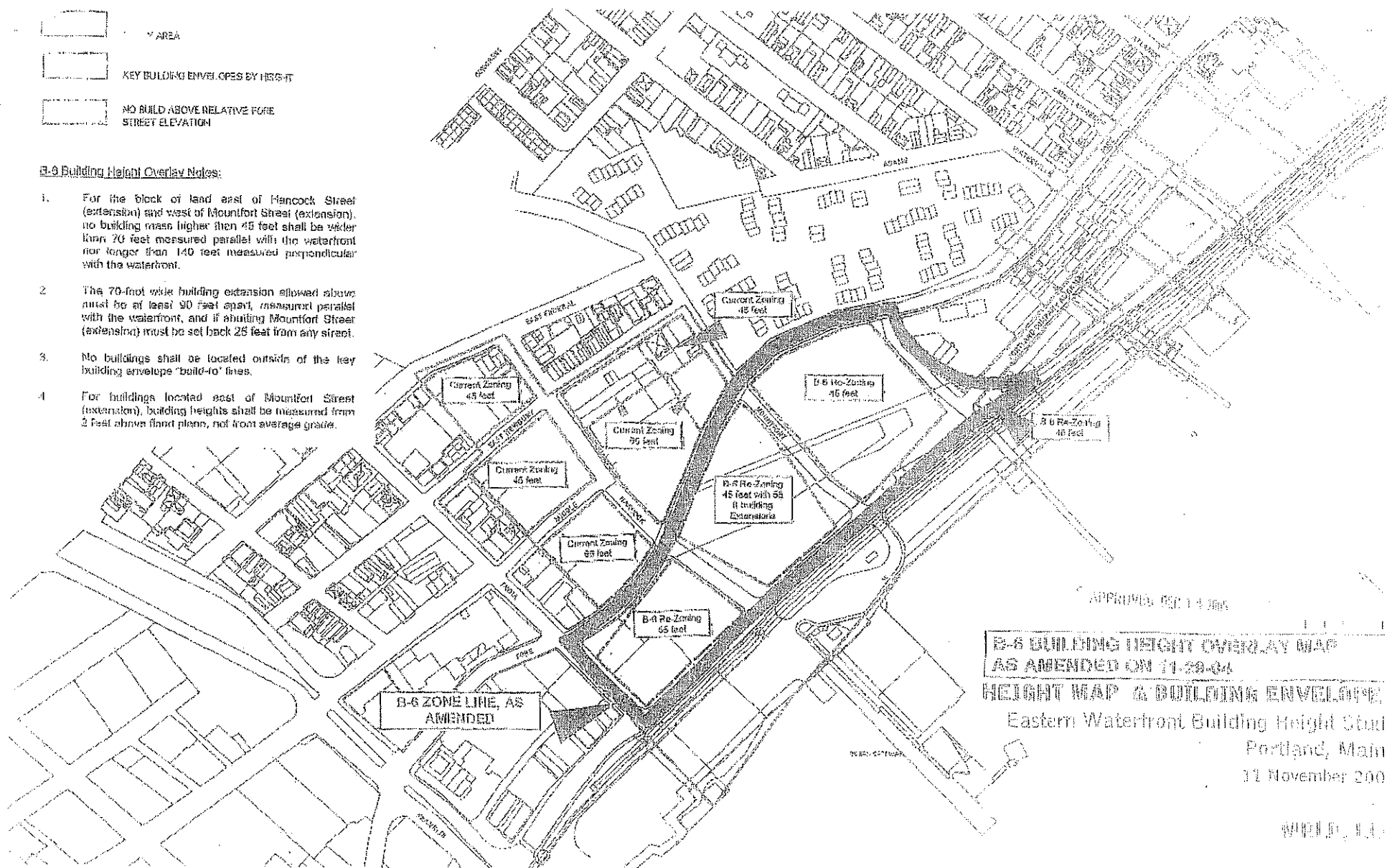
13 September 2004

4



E.4 Building Height Overlay Notes:

1. For the block of land east of Hancock Street (extension) and west of Mountfort Street (extension), no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront.
2. This 70-foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
3. No buildings shall be located outside of the key building envelope "build-to" lines.
4. For buildings located east of Mountfort Street (extension), building heights shall be measured from 3 feet above final plans, not from average grade.



APPROX. REP. 1 1 1962

RE: BOMBING OF JOHN EDGAR HOOVER
AS ARRIVED ON 11-20-64

REPORT MAP A DOLLAR PER KWH

Eastern Waterfront Building Height Study

Portland, Maine

11 November 200

1. *Chlorophyll a* (Chl *a*)
 2. *Chlorophyll b* (Chl *b*)
 3. *Chlorophyll c* (Chl *c*)
 4. *Chlorophyll d* (Chl *d*)
 5. *Chlorophyll e* (Chl *e*)
 6. *Chlorophyll f* (Chl *f*)
 7. *Chlorophyll g* (Chl *g*)
 8. *Chlorophyll h* (Chl *h*)
 9. *Chlorophyll i* (Chl *i*)
 10. *Chlorophyll j* (Chl *j*)
 11. *Chlorophyll k* (Chl *k*)
 12. *Chlorophyll l* (Chl *l*)
 13. *Chlorophyll m* (Chl *m*)
 14. *Chlorophyll n* (Chl *n*)
 15. *Chlorophyll o* (Chl *o*)
 16. *Chlorophyll p* (Chl *p*)
 17. *Chlorophyll q* (Chl *q*)
 18. *Chlorophyll r* (Chl *r*)
 19. *Chlorophyll s* (Chl *s*)
 20. *Chlorophyll t* (Chl *t*)
 21. *Chlorophyll u* (Chl *u*)
 22. *Chlorophyll v* (Chl *v*)
 23. *Chlorophyll w* (Chl *w*)
 24. *Chlorophyll x* (Chl *x*)
 25. *Chlorophyll y* (Chl *y*)
 26. *Chlorophyll z* (Chl *z*)
 27. *Chlorophyll aa* (Chl *aa*)
 28. *Chlorophyll ab* (Chl *ab*)
 29. *Chlorophyll ac* (Chl *ac*)
 30. *Chlorophyll ad* (Chl *ad*)
 31. *Chlorophyll ae* (Chl *ae*)
 32. *Chlorophyll af* (Chl *af*)
 33. *Chlorophyll ag* (Chl *ag*)
 34. *Chlorophyll ah* (Chl *ah*)
 35. *Chlorophyll ai* (Chl *ai*)
 36. *Chlorophyll aj* (Chl *aj*)
 37. *Chlorophyll ak* (Chl *ak*)
 38. *Chlorophyll al* (Chl *al*)
 39. *Chlorophyll am* (Chl *am*)
 40. *Chlorophyll an* (Chl *an*)
 41. *Chlorophyll ao* (Chl *ao*)
 42. *Chlorophyll ap* (Chl *ap*)
 43. *Chlorophyll aq* (Chl *aq*)
 44. *Chlorophyll ar* (Chl *ar*)
 45. *Chlorophyll as* (Chl *as*)
 46. *Chlorophyll at* (Chl *at*)
 47. *Chlorophyll au* (Chl *au*)
 48. *Chlorophyll av* (Chl *av*)
 49. *Chlorophyll aw* (Chl *aw*)
 50. *Chlorophyll ax* (Chl *ax*)
 51. *Chlorophyll ay* (Chl *ay*)
 52. *Chlorophyll az* (Chl *az*)
 53. *Chlorophyll aza* (Chl *aza*)
 54. *Chlorophyll abz* (Chl *abz*)
 55. *Chlorophyll acz* (Chl *acz*)
 56. *Chlorophyll adz* (Chl *adz*)
 57. *Chlorophyll aez* (Chl *aez*)
 58. *Chlorophyll afz* (Chl *afz*)
 59. *Chlorophyll agz* (Chl *agz*)
 60. *Chlorophyll ahz* (Chl *ahz*)
 61. *Chlorophyll aiz* (Chl *aiz*)
 62. *Chlorophyll ajz* (Chl *ajz*)
 63. *Chlorophyll akz* (Chl *akz*)
 64. *Chlorophyll alz* (Chl *alz*)
 65. *Chlorophyll amz* (Chl *amz*)
 66. *Chlorophyll anz* (Chl *anz*)
 67. *Chlorophyll aoz* (Chl *aoz*)
 68. *Chlorophyll apz* (Chl *apz*)
 69. *Chlorophyll aqz* (Chl *aqz*)
 70. *Chlorophyll arz* (Chl *arz*)
 71. *Chlorophyll asz* (Chl *asz*)
 72. *Chlorophyll atz* (Chl *atz*)
 73. *Chlorophyll auz* (Chl *auz*)
 74. *Chlorophyll avz* (Chl *avz*)
 75. *Chlorophyll awz* (Chl *awz*)
 76. *Chlorophyll axz* (Chl *axz*)
 77. *Chlorophyll ayz* (Chl *ayz*)
 78. *Chlorophyll ayz* (Chl *ayz*)
 79. *Chlorophyll azz* (Chl *azz*)
 80. *Chlorophyll azaa* (Chl *aza*)
 81. *Chlorophyll abz* (Chl *abz*)
 82. *Chlorophyll acz* (Chl *acz*)
 83. *Chlorophyll adz* (Chl *adz*)
 84. *Chlorophyll aez* (Chl *aez*)
 85. *Chlorophyll afz* (Chl *afz*)
 86. *Chlorophyll agz* (Chl *agz*)
 87. *Chlorophyll ahz* (Chl *ahz*)
 88. *Chlorophyll aiz* (Chl *aiz*)
 89. *Chlorophyll ajz* (Chl *ajz*)
 90. *Chlorophyll akz* (Chl *akz*)
 91. *Chlorophyll alz* (Chl *alz*)
 92. *Chlorophyll amz* (Chl *amz*)
 93. *Chlorophyll anz* (Chl *anz*)
 94. *Chlorophyll aoz* (Chl *aoz*)
 95. *Chlorophyll apz* (Chl *apz*)
 96. *Chlorophyll aqz* (Chl *aqz*)
 97. *Chlorophyll arz* (Chl *arz*)
 98. *Chlorophyll asz* (Chl *asz*)
 99. *Chlorophyll atz* (Chl *atz*)
 100. *Chlorophyll auz* (Chl *auz*)
 101. *Chlorophyll avz* (Chl *avz*)
 102. *Chlorophyll awz* (Chl *awz*)
 103. *Chlorophyll axz* (Chl *axz*)
 104. *Chlorophyll ayz* (Chl *ayz*)
 105. *Chlorophyll ayz* (Chl *ayz*)
 106. *Chlorophyll azz* (Chl *azz*)
 107. *Chlorophyll azaa* (Chl *aza*)
 108. *Chlorophyll abz* (Chl *abz*)
 109. *Chlorophyll acz* (Chl *acz*)
 110. *Chlorophyll adz* (Chl *adz*)
 111. *Chlorophyll aez* (Chl *aez*)
 112. *Chlorophyll afz* (Chl *afz*)
 113. *Chlorophyll agz* (Chl *agz*)
 114. *Chlorophyll ahz* (Chl *ahz*)
 115. *Chlorophyll aiz* (Chl *aiz*)
 116. *Chlorophyll ajz* (Chl *ajz*)
 117. *Chlorophyll akz* (Chl *akz*)
 118. *Chlorophyll alz* (Chl *alz*)
 119. *Chlorophyll amz* (Chl *amz*)
 120. *Chlorophyll anz* (Chl *anz*)
 121. *Chlorophyll aoz* (Chl *aoz*)
 122. *Chlorophyll apz* (Chl *apz*)
 123. *Chlorophyll aqz* (Chl *aqz*)
 124. *Chlorophyll arz* (Chl *arz*)
 125. *Chlorophyll asz* (Chl *asz*)
 126. *Chlorophyll atz* (Chl *atz*)
 127. *Chlorophyll auz* (Chl *auz*)
 128. *Chlorophyll avz* (Chl *avz*)
 129. *Chlorophyll awz* (Chl *awz*)
 130. *Chlorophyll axz* (Chl *axz*)
 131. *Chlorophyll ayz* (Chl *ayz*)
 132. *Chlorophyll ayz* (Chl *ayz*)
 133.

-  STREET AND/OR AVENUE FRONTAGE
-  PROPERTY LINES/BOUNDARIES BY STREET

THE BUILDING ENVELOPE SHALL BE
AS SHOWN ON THIS MAP

GENERAL NOTES:

1. THE BUILDING ENVELOPE SHALL BE THE MAXIMUM PERMITTED BUILDING ENVELOPE AS SHOWN ON THIS MAP. IT SHALL BE THE MAXIMUM PERMITTED BUILDING ENVELOPE AS SHOWN ON THIS MAP. IT SHALL BE THE MAXIMUM PERMITTED BUILDING ENVELOPE AS SHOWN ON THIS MAP.

2. THE BUILDING ENVELOPE SHALL BE THE MAXIMUM PERMITTED BUILDING ENVELOPE AS SHOWN ON THIS MAP. IT SHALL BE THE MAXIMUM PERMITTED BUILDING ENVELOPE AS SHOWN ON THIS MAP.

3. THE BUILDING ENVELOPE SHALL BE THE MAXIMUM PERMITTED BUILDING ENVELOPE AS SHOWN ON THIS MAP. IT SHALL BE THE MAXIMUM PERMITTED BUILDING ENVELOPE AS SHOWN ON THIS MAP.

4. THE BUILDING ENVELOPE SHALL BE THE MAXIMUM PERMITTED BUILDING ENVELOPE AS SHOWN ON THIS MAP. IT SHALL BE THE MAXIMUM PERMITTED BUILDING ENVELOPE AS SHOWN ON THIS MAP.

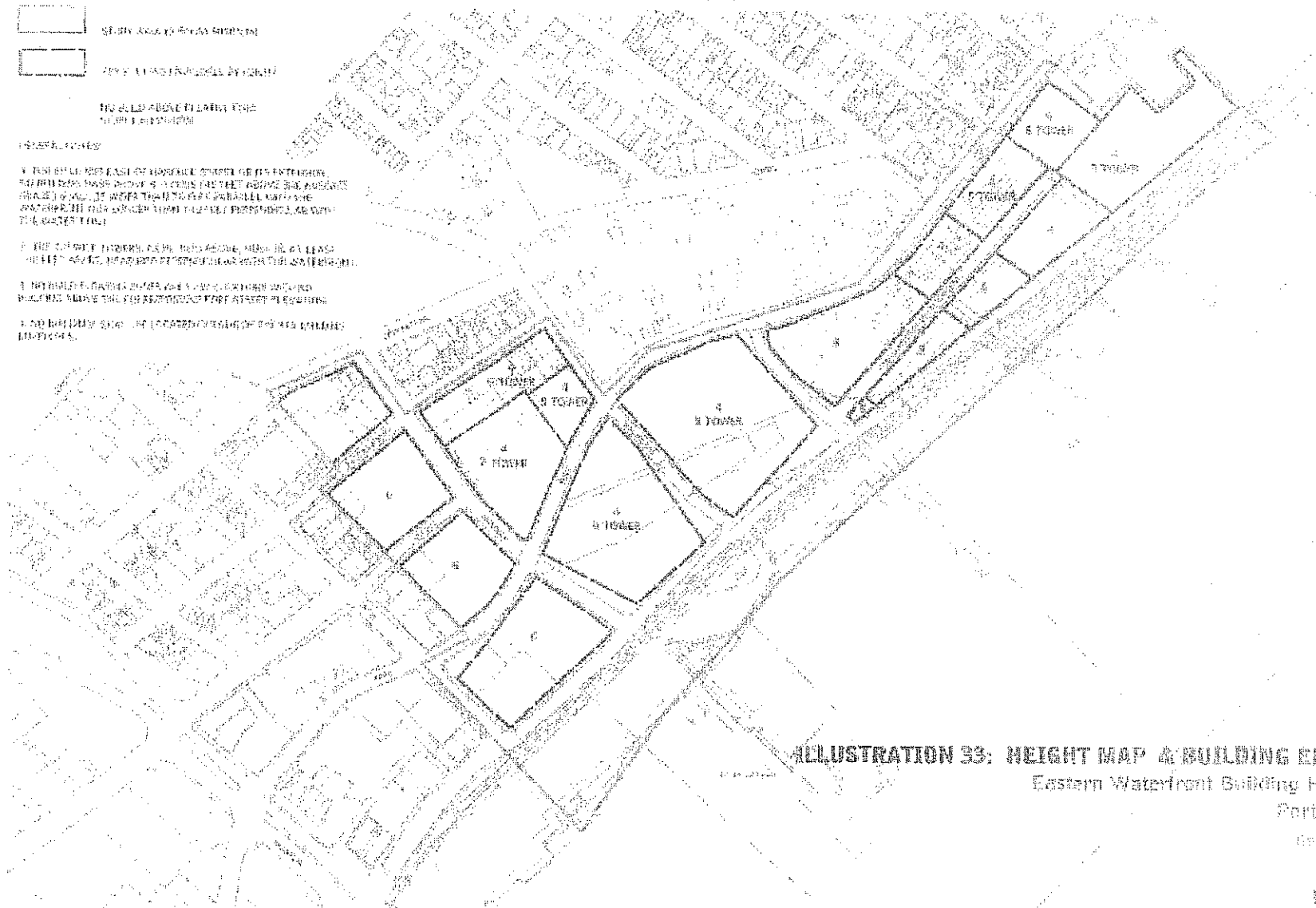


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES

Eastern Waterfront Building Height Study

Portland, Maine

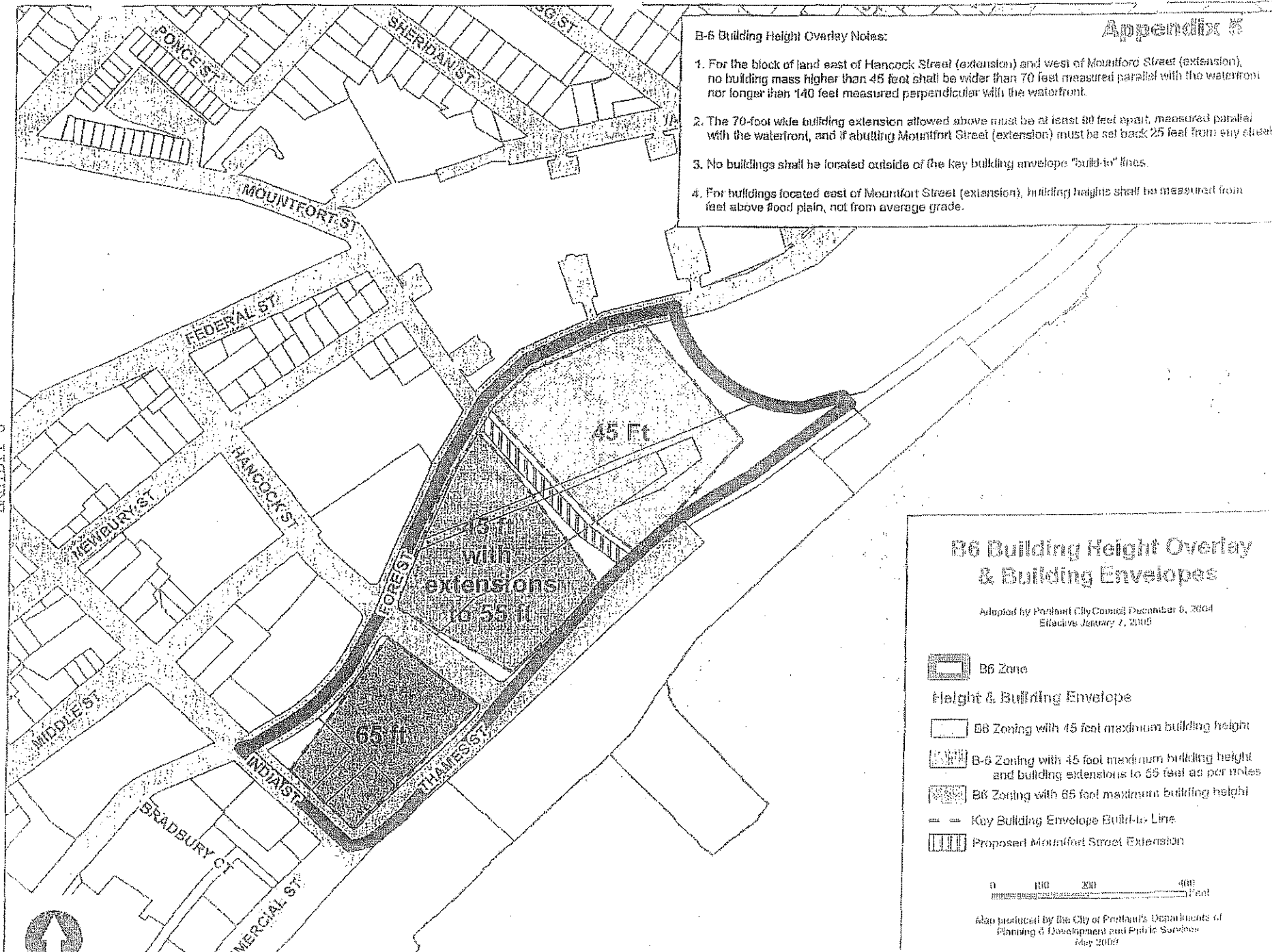
September 2014

WHEEL, LLC

B-6 Building Height Overlay Notes:

Appendix A

1. For the block of land east of Hancock Street (extension) and west of Mountfort Street (extension), no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront.
2. The 70-foot wide building extension allowed above must be at least 80 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
3. No buildings shall be located outside of the key building envelope "build-to" lines.
4. For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade.



B6 Building Height Overlay & Building Envelopes

Adopted by Portland City Council December 6, 2004
Effective January 1, 2005

- B6 Zone
- Height & Building Envelope**
 - B6 Zoning with 45 feet maximum building height
 - B-6 Zoning with 45 foot maximum building height and building extensions to 55 feet as per notes
 - B6 Zoning with 65 feet maximum building height
 - Key Building Envelope Build-to Line
 - Proposed Mountfort Street Extension

0 100 200 400 Feet

Also produced by the City of Portland's Departments of
Planning & Development and Public Services
May 2009



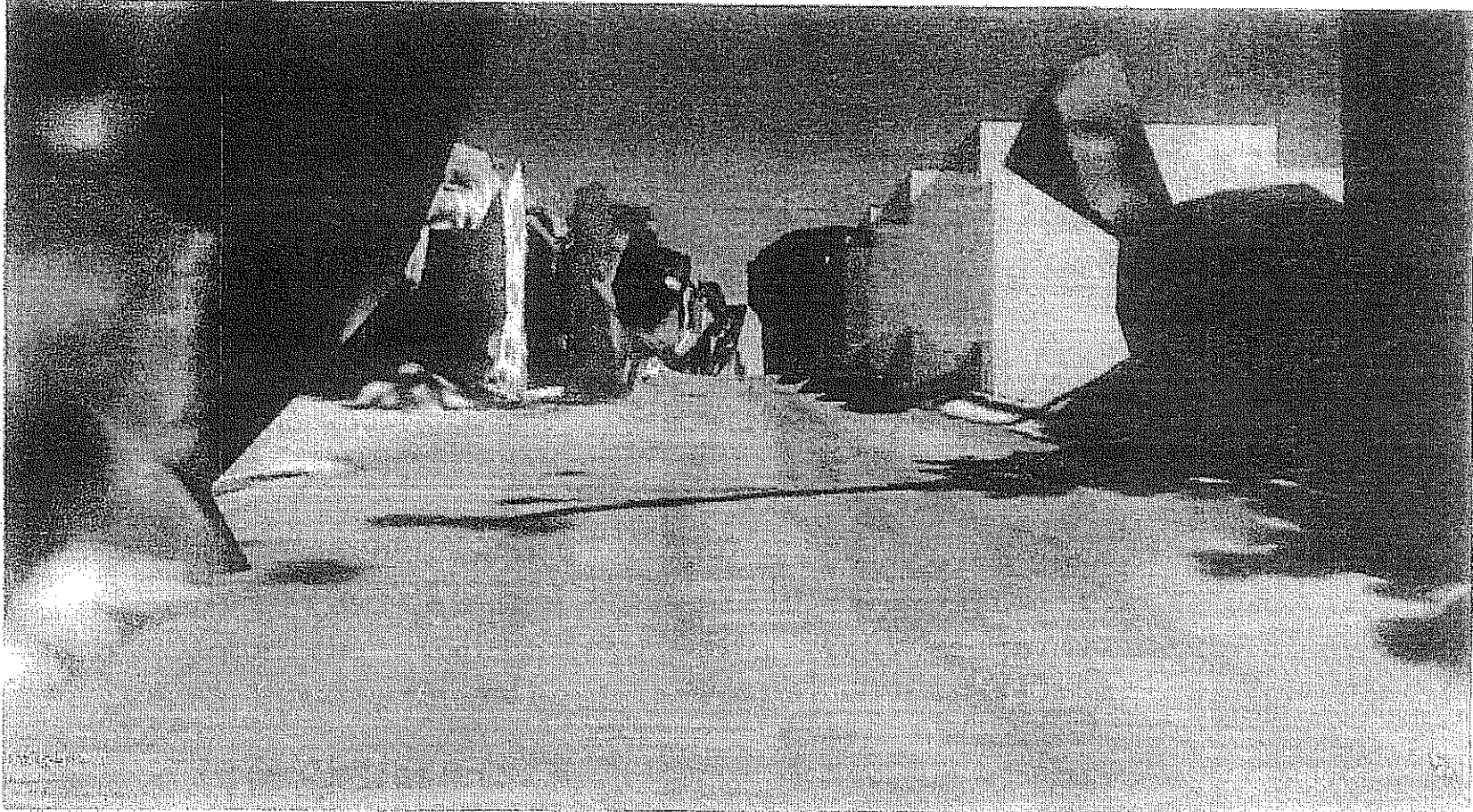
SOUL OF PORTLAND: 02/24/2015
SOUL OF PORTLAND ORR

FORE STREET & WATERVILLE STREET
LIST OF PROPOSED RE-ZONING FROM AVERAGE GRADE (25'x34' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2012



 SOUL OF PORTLAND : 07/24/2015
SOUL.OFPORTLAND.ORG

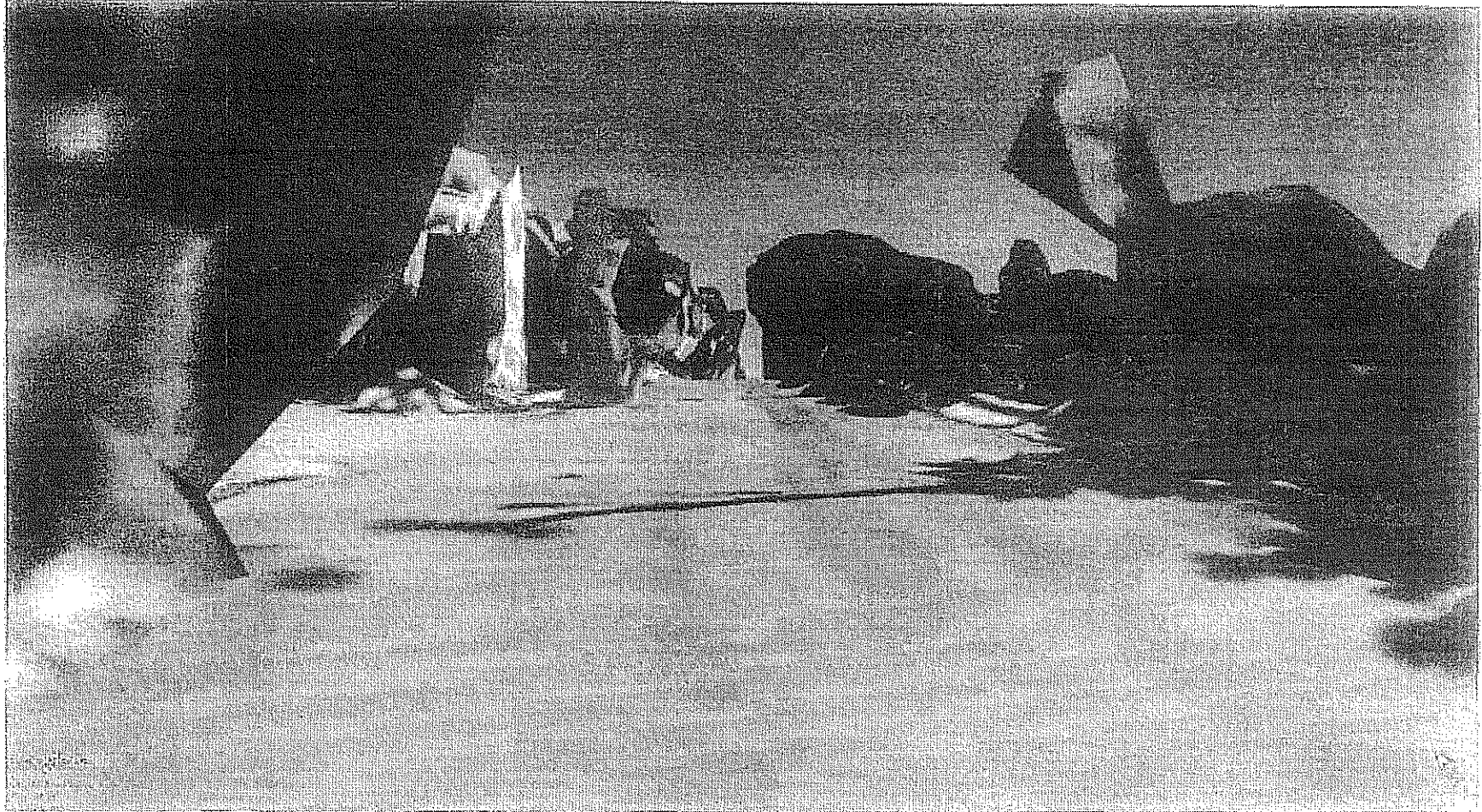
FORE STREET & WATERVILLE STREET
LIMITS OF PROPOSED RE-ZONING FROM FLOOD PLAIN
BASED ON ALTA/ACM LAND TITLE SURVEY DATED MAY 22, 2014



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & ST. LAWRENCE STREET

LIMITS OF PROPOSED BB REZONING FROM AVERAGE GRADE (2003) ORIGIN
BASED ON ALTRACISM LAND TITLE SURVEY DATED MAY 21, 1991



SOUL OF PORTLAND : 02/24/2015
SOULOFFPORTLAND.ORG

FORE STREET & ST. LAWRENCE STREET
LIMITS OF PROPOSED EGRESS FROM FLOOD PLAIN
BASED ON ALTIMETERS AND TITLE SURVEY DATED MAY 20, 2015

March 27, 2015

Mayor Michael Brennan
and City Councilors
Portland City Hall
389 Congress Street
Portland, Maine 04101

CITY OF PORTLAND, MAINE

MAR 27 2015
City Managers Office

Re: B6 Zoning Change Request for Portland Company site

Dear Mayor Brennan & Councilors:

Portland's East End sits on a dramatic land rise, with its spine rising 170 feet over sea level. On the southern slope, two- and three-story homes and apartment buildings line streets dropping toward the sea. Many have striking views of Portland's working waterfront.

Sidewalks/streets in the areas of upper Fore and Adams Streets provide harbor panoramas of a kind that are unique to Portland. Munjoy Hill is densely populated, and residents do not enjoy large yards. These panoramas of Portland Harbor visually connect residents with the waterfront and with nature. These views are enjoyed by children with their parents, bicyclists, joggers, downtown workers on lunchtime walks, and visitors to Portland. More than 4,000 vehicles travel upper Fore Street daily. This is public space that enhances the lives of citizens. The viewshed is unique to Portland and one of the City's great natural resources.

We should also be concerned with the views from the bay looking up at the hillside of our historical neighborhood. These distinctive scenes of a vibrant and varied community say "Portland Maine" to the thousands of ferry users, sailors, and cruise ship visitors.

1983: THE PUBLIC ACCESS DESIGN PROJECT

The City engaged Terrien Architects and Mitchell-Dewan Assoc. to guide "public access" to the waterfront. On Munjoy Hill the Public Access Design Project defines "public access" in terms of water and/or harbor views obtained from streets and sidewalks. It classifies a major panorama as "a point or area offering the street level observer the opportunity to view water and waterfront activities in a cone of vision greater than 45 degrees."

On the attached map "Panorama viewpoints are noted with an arrow, the larger the arrow, the greater the significance of the panorama in terms of angle of view, position of observer, and degree of obstructions. " In addition to Ft. Allen Park, the only "major panoramic views" of the harbor are along upper Fore and Waterville Streets, with lesser

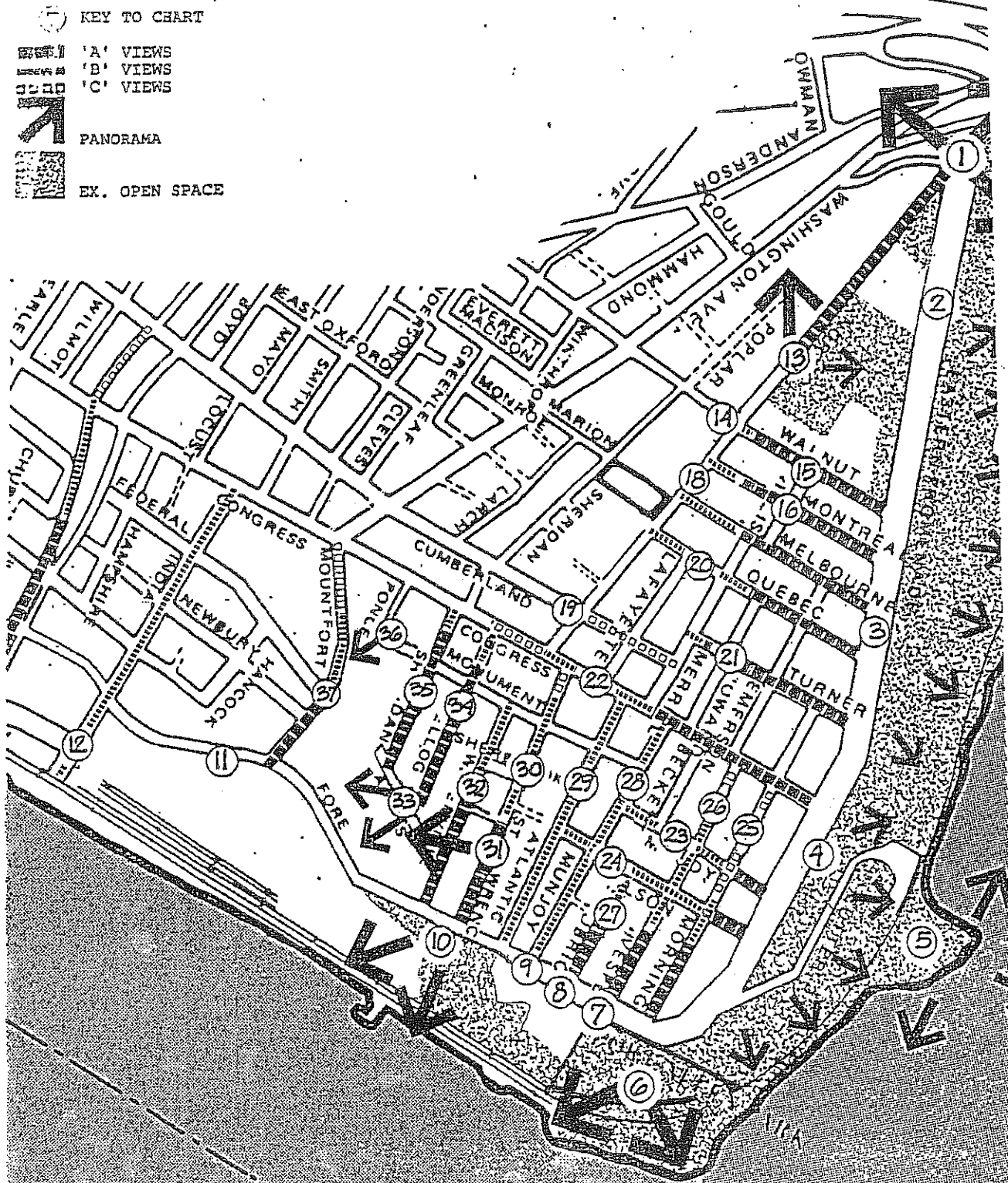
panoramas along Adams Street. The streets sloping down to Fore and Adams are replete with "view corridors".

The Public Access Design Project valued these views as "increasingly important ... for the well being of the entire City..." and recommended that Portland "protect and enhance them."

VISUAL CORRIDORS

Eastern Prom

Comprehensive Plan, Volume 2, N-16



2004: THE EASTERN WATERFRONT BUILDING HEIGHT STUDY

The City anticipated development of its East End waterfront. The Building Height Study is "intended to provide the graphic specificity to the (Eastern Waterfront) Master Plan.... as the foundation of an enforceable regulatory framework" for new development in the area. (Planning Report #37-04, 9/14/04, p. 8)

The Building Height Study emphasized how the unusual topography, with upper Fore Street rising to 80 feet above sea level, allows for the preservation of the unique harbor views for pedestrians and residents while enabling four to six story buildings nestled into the hillside.

Guiding principles for the Building Height Study include:

- "Protect, enhance and create views from various vantage points..."; and,
- "Place taller and larger buildings in the 'shadow' of existing grade changes"

Let's follow the Building Height Study through its process of finalization by the Planning Board and City Council.

Building Height Study Draft of 8/25/04, & Neighborhood Presentation of 9/7/04
Illustration 33 dated August 2004, attached below as E-I, was included in the Height Study Draft of 8/25/04. It allowed for 5 to 8 story buildings on the Portland Company property. (Note: Reference to measurement of building heights "From Floodplain" is typed onto the map within the buildable areas.) This could have resulted in buildings 1-2 stories over Fore Street elevation going east of Waterville (Building Height Study Draft 8/25/04, p.5) At a 9/7/04 neighborhood presentation at the Adams School, more than 100 residents were startled by the proposed loss of views from both private property and public spaces. They emphatically criticized the proposed building heights as too aggressive.

Planning Board Public Hearing/Meeting of 9/14/04 and Recommendation to the City Council

Following the neighborhood outcry over building heights proposed in the Draft report, Planning Department staff and Mitchell Razor, the study's author, developed an alternative Illustration 33 for consideration at the Planning Board public hearing/meeting on 9/14/04. The revised Illustration 33 also dated August 2004, attached below as E-II, used red markers to notate the lowered building heights. (Note: The manually typed references on the map specifying use of flood plain for measurement of building heights were retained. And General Note 1, including a reference to "average grade" in an apparent attempt to define four floors of a building as being 45 feet in height, was added.)

Mr. Razor pointed out that building heights were reduced in the revised proposal so that the "top of the towers are even with existing street grade" of upper Fore Street in

order "to protect and enhance the panoramic views." He asked the Planning Board and public to "keep in mind that floodplain is at 12' (elevation) so buildings have to start 14'" (CD 1; min 17, sec 25 on CD provided to Mayor Brennan), and provided the differentials between Fore Street elevation and floodplain for each block.

The public comments were very appreciative of the height reductions proposed in the revised Illustration 33. Mr. Ben Dudley, who served Munjoy Hill in the State Legislature, summarized the perspectives of nearly all in the sizable audience: "...the zone as proposed that we saw last week would have obstructed neighborhood views which would have (reduced) property values, quality of life and neighborhood character." And "as city dwellers we forfeit the opportunity for sizable private property in favor of neighborhood character, and on Munjoy Hill physical and visual access to the water."

Planning Report #37-04 with Recommendation on Including the Eastern Waterfront Building Height Study into the City's Comprehensive Plan, states that "While the total aggregated square footage allowed under the suggested amendments would be less than envisioned under the August 25 Draft of the Height Study, the amendments would still allow significant redevelopment" and "still achieve an urban density and scale that are consistent with the Master Plan." (0:\PLAN\WATFRNT\Planning Board\PBR 37-04,B-6,9-14-04.doc)

Following the public hearing and Board discussion, the Planning Board recommended to the City Council the Building Height Study incorporating the height overlay represented by this marked up version Illustration 33.

City Council Public Hearing/Meeting of 11/1/04

Illustration 33 dated 11/1/04, attached as E-III, was presented as recommended by the Planning Board. The building heights agreed with the revised Illustration 33 dated August 2004 and recommended by the Planning Board. (Note: On this Illustration 33, references to measurement of building heights from flood plain were moved from the map proper to General Note 2 calling for heights to "be measured from 2' above the flood plain elevation for the site based on the National Geodetic Vertical Datum." General Note 1 with its reference to average grade in defining four floors of a building remains, not considered inconsistent with height measurement from 2' above flood plain.)

Because views were an important issue to the many attendees, Mayor Nathan Smith asked for clarity on building height measurement. Mr. Needleman responded that the zoning administrator normally measures up from average grade, but "Because of extreme changes in grade we find on the eastern waterfront...East of Mountfort Street building elevations are tied to two feet above flood plain which is the buildable elevation. So there would be no chance of a developer averaging grade and going up higher." (Mayor Smith's request for clarification begins at DVD Hour 2, Min 4, Sec 40. A DVD was provided to Mayor Brennan.)

With no significant discussion of the Building Height Study as it relates to the Portland

Company site at its 11/29 or 12/8/04 meetings, the City Council adopted the Eastern Waterfront Master Plan including the Building Height Study on December 8, 2004

FEBRUARY 2015: BUILDING HEIGHT MISINTERPRETATION BY THE PLANNING BOARD

The Building Height Study explicitly used floodplain plus 2' for measuring building heights throughout the Planning Board and City Council actions of late 2004 in presentations to the public and their own deliberations. Preservation of panoramas from public spaces was a guiding principal, and the specificity provided by use of floodplain based on National Geodetic Vertical Datum was deliberate. Building heights were lowered from original proposals to prevent penetration of street elevation on Fore Street between its intersections with Waterville and Atlantic Streets. The Council, in agreement with the Planning Board and the neighborhood, recognized the value to the City of preserving the harbor panoramas that are critical to the character of Munjoy Hill and Portland.

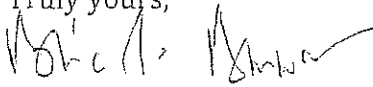
It has been argued that average grade, as opposed to 2' above flood plain, should be used in measuring building heights because of the apparent inclusion, in the Building Height Study package provided to the City Clerk, a "September 2004" draft of Illustration 33 (attached as E-IV). This "September 2004" draft dropped the references to "From Floodplain" on the map proper seen in the August versions (E-I and E-II) used by the Planning Board in its September 14, 2004 deliberations. Further it had not yet added General Note 2 calling for measurement from "2' above flood plain elevation" seen in the November 1 version (E-III) used by the Council in its November 1, 2004 deliberation. It seems clear that the November 1 version used by the Council in its deliberations on that day, was developed to correct the omission of measurement from flood plain, and superseded the September draft. Specification of measurement from 2' above flood plain elevation is consistent with all of the information given to the public and used by the Planning Board and the City Council throughout the period.

The above detailed history of the Building Height Study was obtained from Planning Department files in conjunction with review of VHS tapes of City Council meetings of November and early December 2004, and cassette tapes of the September 14, 2004 Planning Board Meeting. The review of these tapes occurred after the Planning Board meetings of last month. Thus the above information was not available to the Planning Board in their deliberations.

Redevelopment of the Portland Company site is possible with broad neighborhood support. But that support is dependent upon development that will not just benefit the owner, but is guided by those values that reflect the unique, natural attributes of Munjoy Hill and the City of Portland.

I request that you expeditiously clarify the Council's position that the Building Height Study calls for the height of buildings and tower masses east of Mountfort Street or its extension to be measured form 2' above the flood plain elevation for the site based on the National Geodetic Vertical Datum.

Truly yours,

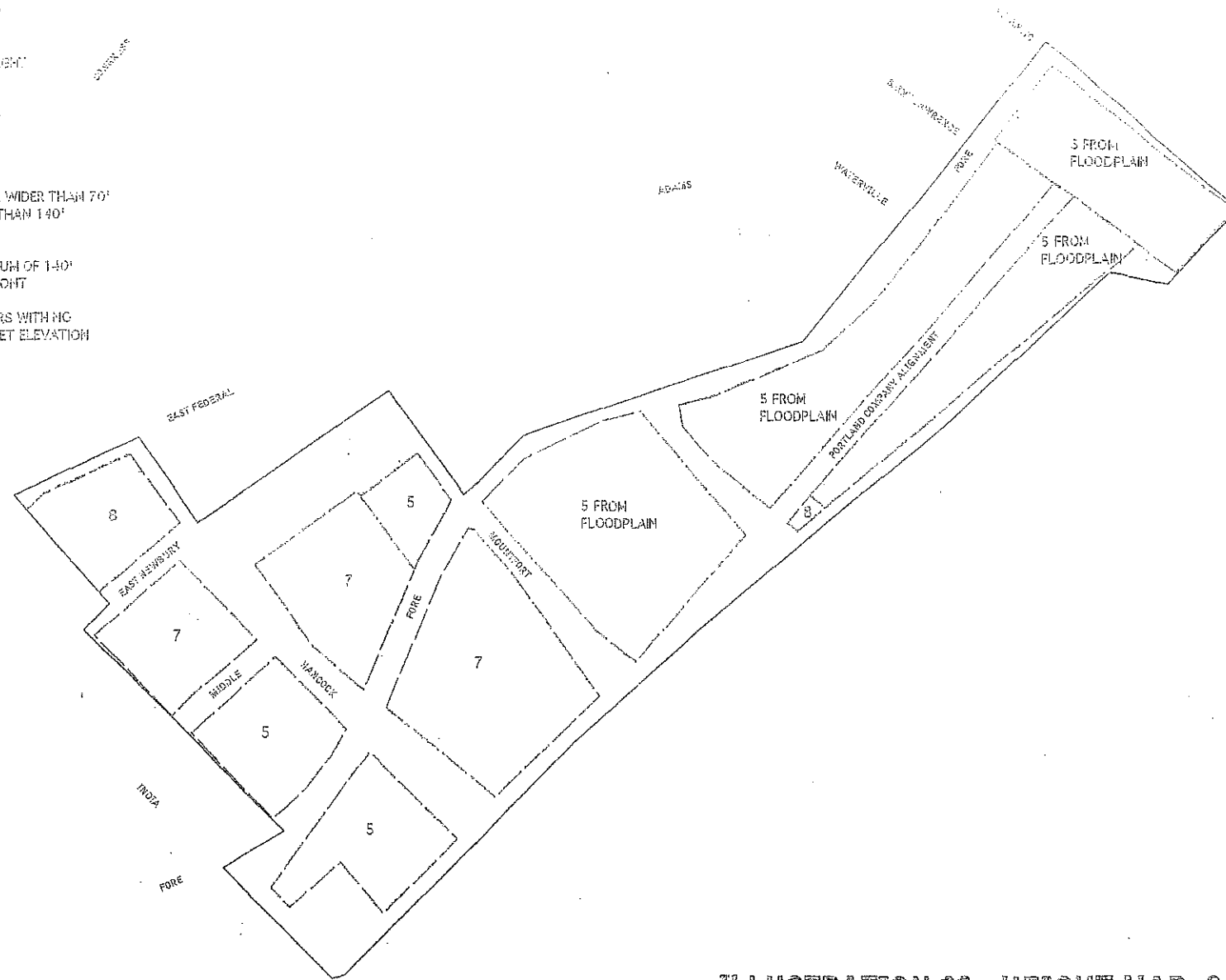
A handwritten signature in dark ink, appearing to read "Brian Burwell", with a long, sweeping horizontal stroke extending to the right.

Brian Burwell
31 Fore Street, Portland

- STUDY AREA (5 STORY MINIMUM)
- KEY BUILDING ENVELOPES BY HEIGHT
- NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

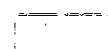
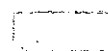
1. NO BUILDING MASS ABOVE 5 FLOORS SHALL BE WIDER THAN 70' PARALLEL WITH THE WATERFRONT AND LONGER THAN 140' PERPENDICULAR WITH THE WATERFRONT.
2. 70' WIDE TOWER/BUILDING AREAS ARE A MINIMUM OF 140' APART, MEASURED PARALLEL WITH THE WATERFRONT.
3. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION



E-I

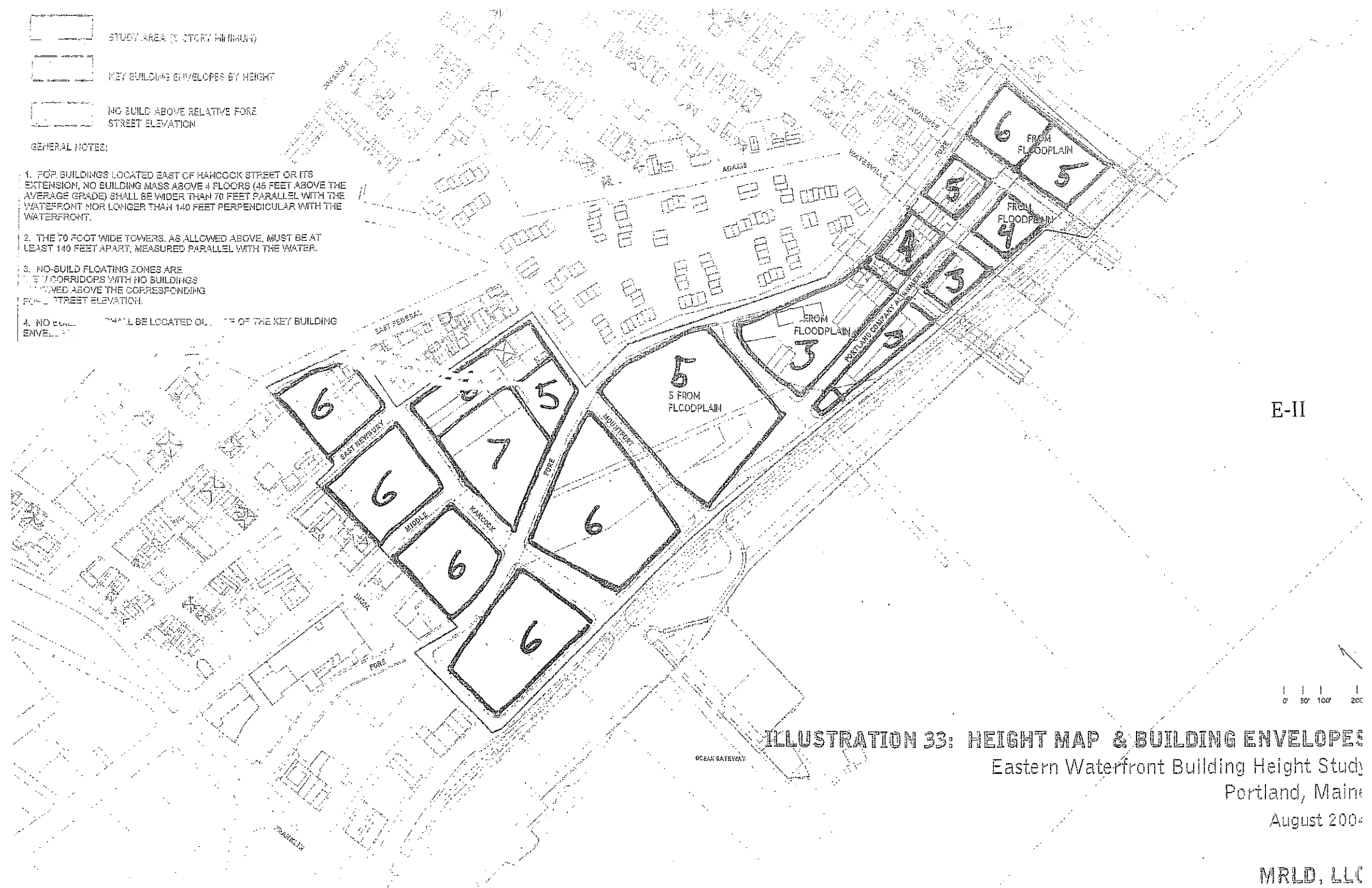
ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 August 2004

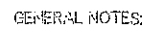
MRLD, LLC

-  STUDY AREA (1 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS LOCATED EAST OF HANCOCK STREET OR ITS EXTENSION, NO BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
2. THE 70 FOOT WIDE TOWERS, AS ALLOWED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PARALLEL WITH THE WATER.
3. NO-BUILD FLOATING ZONES ARE 70' CORRIDORS WITH NO BUILDINGS ALLOWED ABOVE THE CORRESPONDING FORE STREET ELEVATION.
4. NO BUILDING SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPE.





- E-III

0' 50' 100' 200'

Portland, Maine

MRLD, LLC

A

KEY BUILDING ENVELOPES BY HEIGHT

NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, NO BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

2. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.

3. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.

4. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.



ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES

Eastern Waterfront Building Height Study

Portland, Maine

September 2000

207 774-1200 main
207 774-1127 facsimile
bernsteinshur.com

BERNSTEIN SHUR

COUNSELORS AT LAW

100 Middle Street
PO Box 9729
Portland, ME 04104-5029

CITY OF PORTLAND, MAINE

Memorandum

MAR 27 2015

City Managers Office

To: Portland City Council

Cc: Danielle West-Chuhta
Jeff Levine

From: Mary Costigan

Date: March 27, 2015

Re: Proposed Amendments to the B6 Building Height Overlay

I am writing on behalf of CPB2, the owners of the Portland Company property located at 58 Fore Street. We understand that there may be some questions regarding the proposed amendments to the B-6 Building Height Overlay Map (the "Overlay Map"). This memo is intended to clarify the legal basis for the proposed amendments and demonstrate in the attached schematics the results of applying the building heights as depicted on the Overlay Map. It is also our understanding that the issues that are being raised by neighbors of the property based on a perceived loss of views are the same issues that were raised and thoroughly vetted by the Planning Board prior to their unanimous recommendation to the Council that the zoning map amendments, text amendments and amendments to the Overlay Map be enacted by the Council.

2004 Council Adoption of the Eastern Waterfront Master Plan and Height Study into the Comprehensive Plan and adoption of the B-6 Zone

As you are aware, the Planning Board has unanimously recommended adoption of the proposal submitted by CPB2 to extend the B-6 and Eastern Waterfront Port Zones over the Portland Company property and to amend the B-6 Height Overlay Map. All of the recommended amendments are directly in line with the Eastern Waterfront Master Plan and Building Height Study which is a part of the City's Comprehensive Plan.

In late 2004, the Council considered the adoption of both an amended Eastern Waterfront Master Plan and the new B-6 Zone simultaneously. Order 79 was titled "Amending City's Comprehensive Plan Re: Eastern Waterfront Master Plan, Including Eastern Waterfront Height Study."

property, the B-6 Height Overlay Map did not. Thus, discussions of amendments to the height Overlay Map did not impact the Portland Company property. That Amendment to remove the Portland Company from the Height Study was never moved and Order 79 passed without amendment on December 8th. Councilor Gorham also stated that the Council should deal with the Portland Company property as a whole when presented with the possibility of redevelopment. Now is that time.

CPB2's Proposed Amendments to the B-6 Building Height Overlay

As discussed above, Illustration 33 in the Comprehensive Plan includes the Portland Company Property. Because the Portland Company was not rezoned to B-6 in 2004, the B-6 Height Overlay Map adopted by the Council in 2004 did not extend over the property. As part of its proposal, CPB2 amended the Overlay Map to include the Portland Company property and the amendment is based on the heights depicted in Illustration 33 of the Comprehensive Plan. Exhibit 2 to this memo is the proposed amended B-6 Height Overlay Map and a graphic depiction of what those heights could potentially look like when viewed from Fore Street, looking toward the water. As you can see, due to the steep grade of the property, building height along the Fore Street frontage could range from 1.5 to 3 stories. The graphic also includes the 50' view corridors at each street intersection and also depicts the buildings located on the northern side of Fore Street for context.

In order to address concerns of the neighboring property owners and planning board members that there could be a potential for greater heights, depending on the average grade of a particular building, CPB2 added a restriction on the height of buildings along Fore Street, provided in Note 3 of the amended Height Overlay Map: "For buildings located East of Mountfort Street (extension), no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way."

In addition, CPB2 added a text amendment into the B-6 zoning ordinance to address massing and permeability on the property: "New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate." All of these amendments, along with the existing standards of the Eastern Waterfront Master Plan and associated design guidelines, provide protections of waterfront views from Fore Street, while permitting moderately-sized development that is consistent with the neighborhood and will allow for an economically viable project with connectivity between Fore Street and the waterfront.

Average Grade v. Flood Plain

You have likely been hearing about the height debate in these terms. In a nutshell, the difference between measuring the height of buildings on the Portland Company property

from average grade v. flood plain is whether or not there will be buildings that rise above Fore Street. It is a very big difference with real consequences that impact the economic feasibility of the entire project, as well as the vision of the Eastern Waterfront Master Plan.

Measurement from average grade means that the point at which you begin to measure the height of a building is the elevation of the abutting ground surface at the building walls. Measurement from flood plain, or base flood elevation, means that the point at which you begin to measure the height of a building is from a variable number - which today is approximately thirteen feet (13') at the Portland Company. The Planning Board has unanimously recommended that heights be measured from average grade with full knowledge that it means that there will be buildings along Fore Street that rise above the grade of Fore Street, contextual to the existing neighborhood. This is consistent with the Illustration 33 of the Height Study adopted by the Council, which specifically mentions measuring height from average grade in Note 1. Furthermore the Height Study and the Eastern Waterfront Master Plan refer to "view corridors" from Fore Street throughout, which reference would be irrelevant if the intent of the Height Study and the Eastern Waterfront Master Plan was to prevent any buildings from being higher than the neighboring Fore Street elevation.

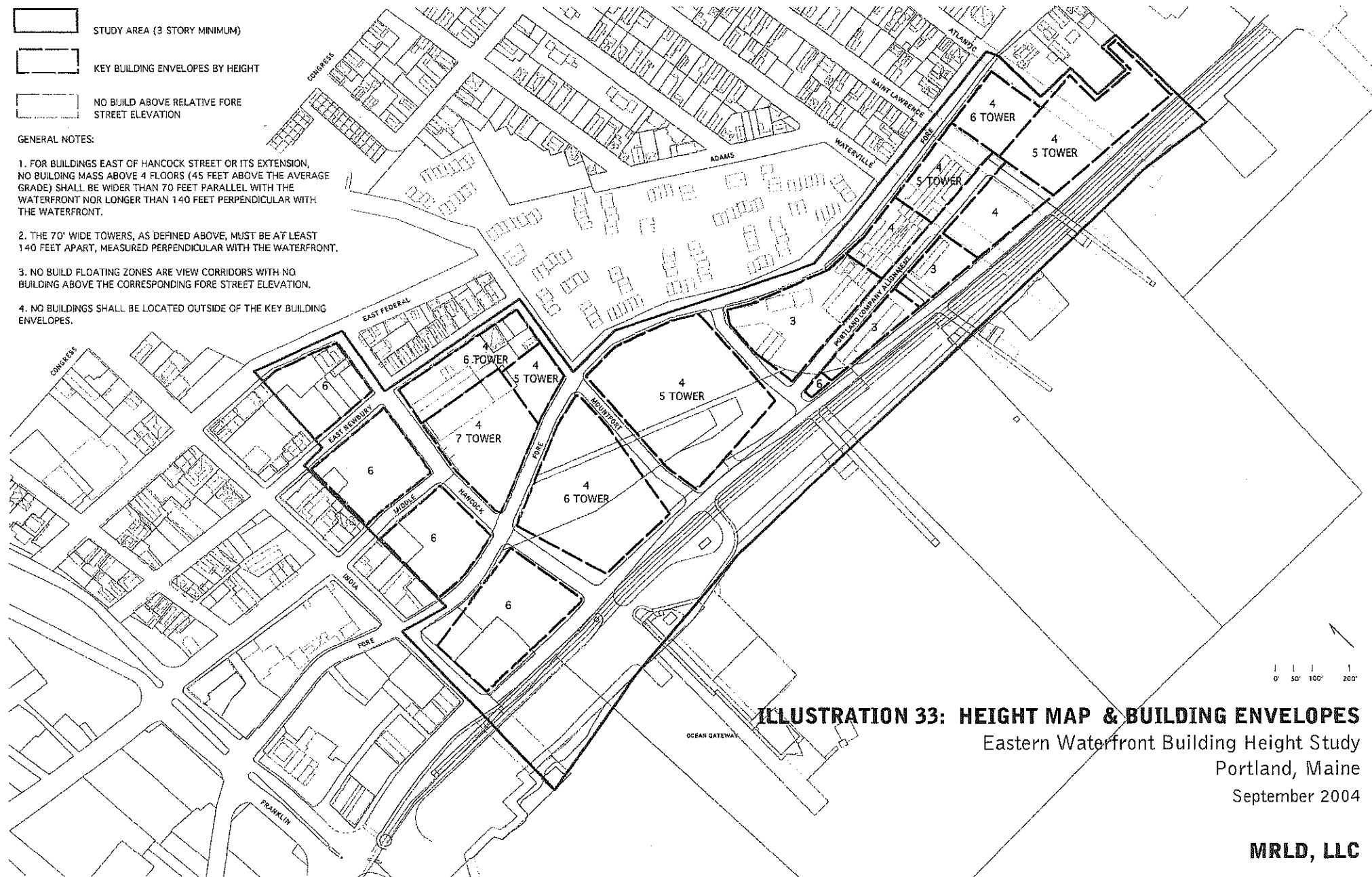
Attached Exhibit 2 mentioned above shows the potential heights of buildings along Fore Street when measured from average grade. With the additional protections in place, the tallest a building could possibly be is 35 feet above the grade of Fore Street – a three story building. The proposed height on the southern side of Fore Street is lower than the height allowance of 45 feet from average grade for the R-6 zoning of the Munjoy Hill neighborhood right across the street. As demonstrated in Exhibit 2, many of the buildings on the northern side of Fore Street exceed the potential heights of the buildings on the Portland Company Property.

If the permitted building heights on the Overlay Map were measured from floodplain, of the 1,050 feet of frontage of the Portland Company property along Fore Street, only 20% of the property's frontage on Fore Street (along the western side) could contain a building whose height could be higher than the adjoining Fore Street elevation and it would only be a single story. The remaining 80% of frontage could not contain any buildings that front Fore Street, as the buildings would not break the elevation of the road.

Exhibit 3 to this memo provides a graphic depiction of buildings on the Portland Company property if the heights are measured from floodplain. Although this may preserve a larger view of Casco Bay from private property across the street, measuring building heights from floodplain on this property significantly impacts the economic feasibility of development on the site. More importantly, it is contrary to the vision of the Eastern Waterfront Master Plan for a vibrant, mixed use zone that connects the waterfront to the upland.

In the end, regardless of what happened in 2004, this is a policy decision for the Council as to whether or not you would support a zoning amendment that would allow 35-ft. tall buildings along Fore Street at the Portland Company property. Thank you for your time and consideration of this issue.

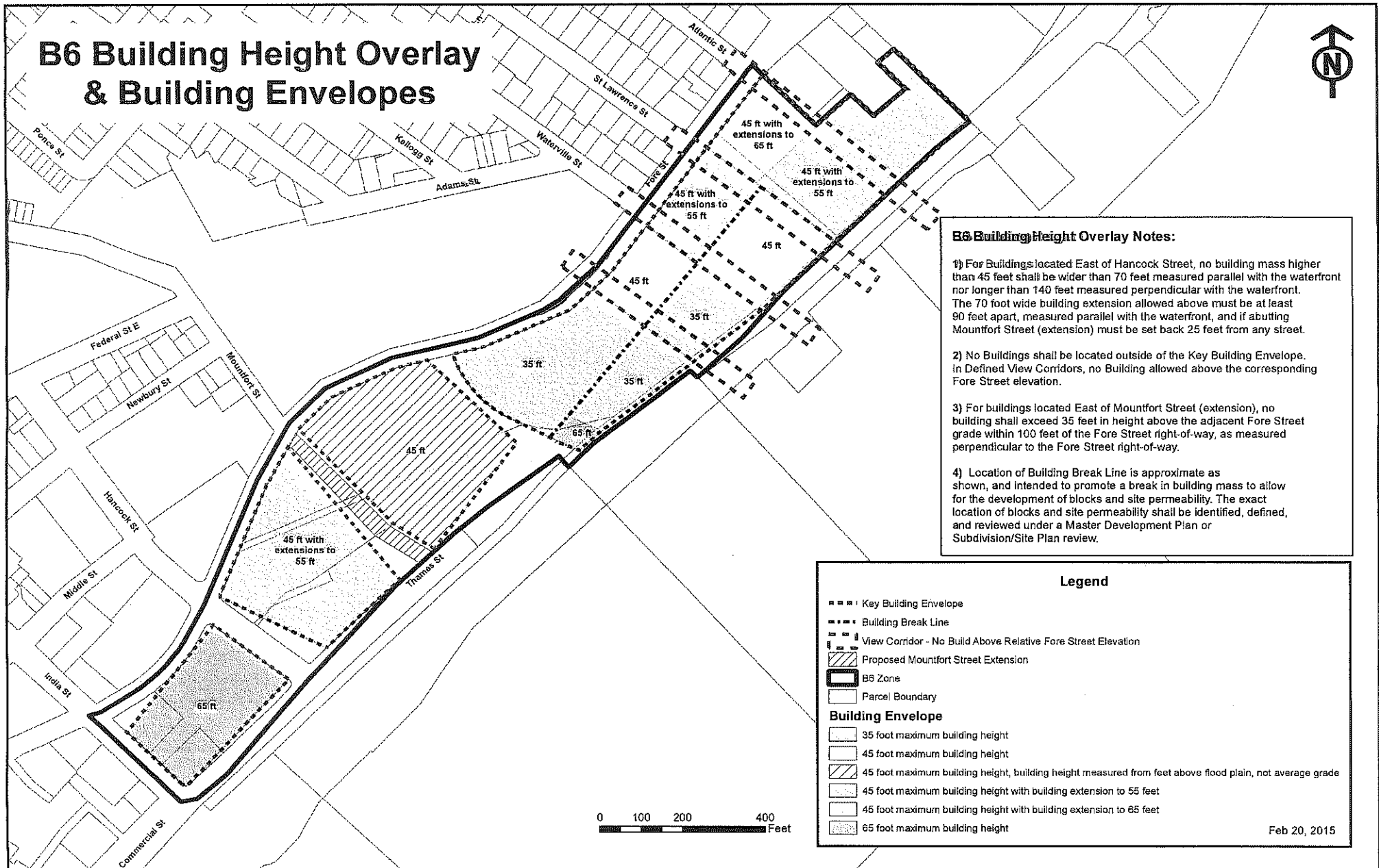
1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, NO BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
2. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.
3. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.
4. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.



Eastern Waterfront Building Height Study
Portland, Maine
September 2004

MRLD, LLC

B6 Building Height Overlay & Building Envelopes



B6 Building Height Overlay Notes:

- 1) For Buildings located East of Hancock Street, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70 foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
- 2) No Buildings shall be located outside of the Key Building Envelope. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
- 3) For buildings located East of Mountfort Street (extension), no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
- 4) Location of Building Break Line is approximate as shown, and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Subdivision/Site Plan review.

Legend

- Key Building Envelope
 - - - Building Break Line
 - - - View Corridor - No Build Above Relative Fore Street Elevation
 - ▨ Proposed Mountfort Street Extension
 - B6 Zone
 - Parcel Boundary
- Building Envelope**
- 35 foot maximum building height
 - 45 foot maximum building height
 - ▨ 45 foot maximum building height, building height measured from feet above flood plain, not average grade
 - ▨ 45 foot maximum building height with building extension to 55 feet
 - ▨ 45 foot maximum building height with building extension to 65 feet
 - ▨ 65 foot maximum building height

Feb 20, 2015

Order 79 – 04/05

Postponed on 10/4/04, 10/18/04, 11/1/04 and 11/29/04

Passage 12/8/04 9-0

NATHAN H. SMITH (MAYOR)(3)
WILLIAM R. GORHAM (1)
KAREN A. GERAGHTY (2)
CHERYL A. LEEMAN (4)
JAMES I. COHEN (5)

CITY OF PORTLAND
IN THE CITY COUNCIL

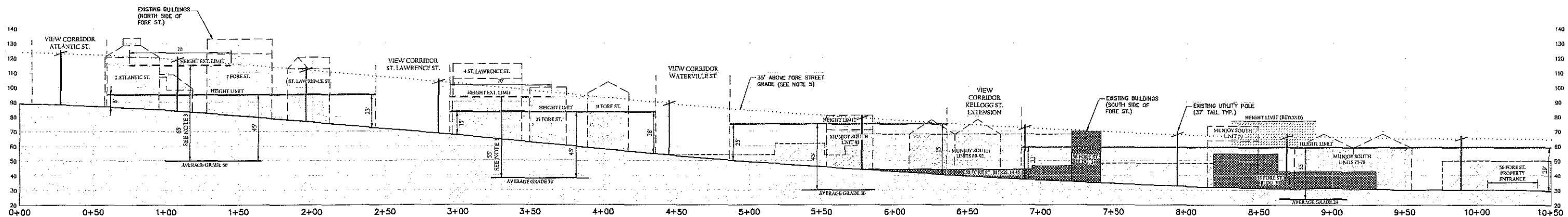
PETER E. O'DONNELL (A/L)
JAMES F. CLOUTIER(A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER AMENDING CITY'S COMPREHENSIVE PLAN
RE: EASTERN WATERFRONT MASTER PLAN,
INCLUDING EASTERN WATERFRONT HEIGHT STUDY

ORDERED, that the City's Comprehensive Plan is hereby amended by incorporating the Eastern Waterfront Master Plan attached hereto and dated October, 2004, including the Eastern Waterfront Height Study.

FORE STREET SECTION WITH B6 HEIGHT OVERLAY

As requested by Planning Board



CPB2 LLC
PORTLAND WATERFRONT DEVELOPMENT PARTNERS, LIMITED

WOODWARD & CURRAN
41 Pleasant Street, Portland, Maine 04102
1000 Main Street, Portland, Maine 04101
COMMUNITY & ECONOMIC DEVELOPMENT

SOURCE DATA: B6 BUILDING HEIGHT
OVERLAY & BUILDING ENVELOPES MAP;
TOPOGRAPHIC / BOUNDARY SURVEY FOR 58
FORE ST.; CITY OF PORTLAND GIS DATA
DATE: DECEMBER 17, 2014

EXISTING OFF-SITE BUILDINGS FRONTING FORE STREET

EXISTING ON-SITE BUILDINGS, 58 FORE STREET

HEIGHT STUDY BUILDING ENVELOPES

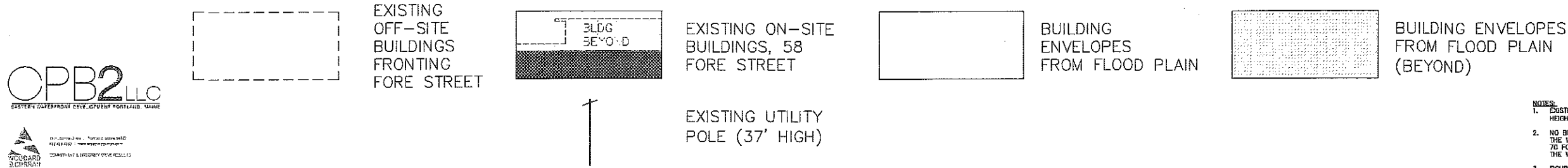
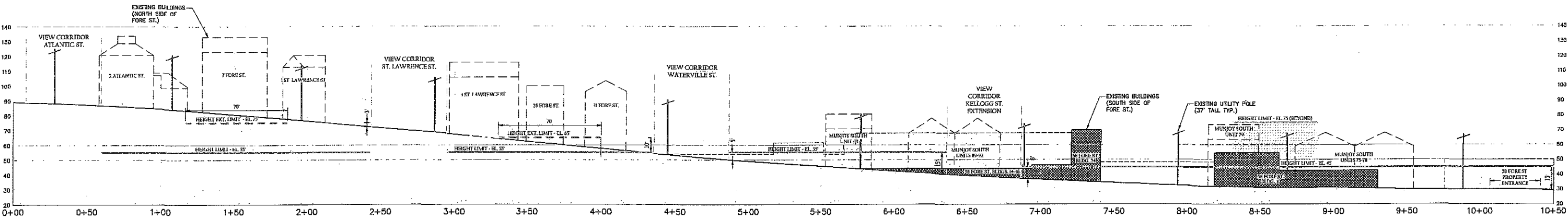
HEIGHT STUDY BUILDING ENVELOPES (BEYOND)

EXISTING UTILITY POLE (37' HIGH)

HEIGHT STUDY BUILDING ENVELOPES (BEYOND)

- NOTES:
- SECTION DOES NOT DEPICT ACTUAL PROPOSED BUILDING STRUCTURES. THE HEIGHT MEASUREMENTS ABOVE FORE STREET GRADE (SHADED IN BLUE AND GREEN) REPRESENT THE MAXIMUM HEIGHT ALLOWED PER THE BUILDING HEIGHT STUDY BASED ON AN ANALYSIS OF THE BUILDING HEIGHT ENVELOPES. THIS IS NOT A DESIGN PROPOSAL; IT IS INTENDED TO PROVIDE A REASONABLE INTERPRETATION OF THE FORE STREET CORRIDOR BASED ON THE EASTERN WATERFRONT BUILDING HEIGHT STUDY.
 - EXISTING BUILDING SECTIONS DEPICTED ARE APPROXIMATE AS SHOWN. R-6 MAXIMUM STRUCTURE HEIGHT: FORTY-FIVE (45) FEET.
 - NO BUILDING MASS HIGHER THAN 45 FEET SHALL BE WIDER THAN 70 FEET MEASURED PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET MEASURED PERPENDICULAR WITH THE WATERFRONT. THE 70 FOOT WIDE BUILDING EXTENSION MUST BE AT LEAST 90 FEET APART, MEASURED PARALLEL WITH THE WATERFRONT. EASTERN WATERFRONT BUILDING HEIGHT STUDY, SEPTEMBER 2004. HEIGHT EXTENSION LOCATIONS MAY VARY WITHIN THE LIMITS OF THE GREY LINES DEPICTED ON THE SECTION; HEIGHT EXTENSION LOCATIONS ARE RESTRICTED BY THE 35' MAXIMUM HEIGHT LIMIT ABOVE FORE STREET WITHIN 35' OF FORE STREET, AS PROPOSED ON THE B6 HEIGHT OVERLAY MAP.
 - AVERAGE GRADE IS THE AVERAGE OF THE FOUR CORNERS FOR EACH HEIGHT STUDY BUILDING ENVELOPE.
 - FOR BUILDINGS LOCATED EAST OF MOUNTFORT STREET (EXTENSION), NO BUILDING THAT HAS FRONTAGE ON FORE STREET SHALL EXCEED 35 FEET IN HEIGHT ABOVE THE ADJACENT FORE STREET RIGHT-OF-WAY GRADE WITHIN 35 FEET OF THE FORE STREET RIGHT-OF-WAY.
 - FIGURE WAS DEVELOPED BY LAYERING MULTIPLE SECTION CUTS ACROSS THE WATER, 58 FORE STREET, FORE STREET, AND UPHILL OF FORE STREET. FIGURE DEPICTS BUILDING HEIGHT LIMITS WHEN VIEWING THE 58 FORE STREET SITE FROM AN OFFSITE LOCATION UPHILL OF FORE STREET IN AN ORIENTATION THAT IS SQUARE WITH THE VIEW CORRIDORS.
 - SECTION SCALE: HORIZONTAL 1"=30'

FORE STREET SECTION WITH B6 HEIGHT OVERLAY
AS MEASURED FROM FLOOD PLAIN (EL. 10)



OPB2 LLC
EASTERN WATERFRONT DEVELOPMENT PORTLAND, MAINE

1000 Commercial Street, Portland, Maine 04101
TEL: 603.633.1100 FAX: 603.633.1101
WWW.OPB2LLC.COM

SOURCE DATA: 88 BUILDING HEIGHT
OVERLAY & BUILDING ENVELOPES MAP,
TOPOGRAPHIC/ BOUNDARY SURVEY FOR 58
FORE ST.; CITY OF PORTLAND GIS DATA
DATE: DECEMBER 17, 2014

- NOTES:
- EXISTING BUILDING SECTIONS DEPICTED ARE APPROXIMATE AS SHOWN. R-8 MAXIMUM STRUCTURE HEIGHT: FORTY-FIVE (45) FEET.
 - NO BUILDING MASS HIGHER THAN 45 FEET SHALL BE WIDER THAN 70 FEET MEASURED PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET MEASURED PERPENDICULAR WITH THE WATERFRONT. THE 70 FOOT WIDE BUILDING EXTENSION MUST BE AT LEAST 90 FEET APART, MEASURED PARALLEL WITH THE WATERFRONT; EASTERN WATERFRONT BUILDING HEIGHT STUDY, SEPTEMBER 2004.
 - FIGURE WAS DEVELOPED BY LAYERING MULTIPLE SECTION CUTS ACROSS THE WATER, 58 FORE STREET SITE, FORE STREET, AND UPHILL OF FORE STREET. FIGURE DEPICTS BUILDING HEIGHT LIMITS WHEN VIEWING THE 58 FORE STREET SITE FROM AN OFF-SITE LOCATION UPHILL OF FORE STREET IN AN ORIENTATION THAT IS SQUARE WITH THE VIEW CORRIDORS.
 - SECTION SCALE: HORIZONTAL AND VERTICAL 1"=30'
 - FEMA ZONE "A" BASE FLOOD ELEVATION = 10 NGVD29 (ALONG WATERFRONT)

Portland, Maine



Yes. Life's good here.

Office of the Mayor
Michael F. Brennan

To the Portland City Council

From: Mayor Michael Brennan

Date: April 2, 2015

Re: Submission of five CDs of a 2004 Planning Board Meeting and one DVD of a 2004 City Council Meeting

At the request of Brian R. Burwell, whose letter is attached, I am including three CDs of the September 14, 2004 City of Portland Planning Board meeting and a DVD of the November 4, 2014 Portland City Council meeting, which he submitted to me, in the public record of the City Council meeting of April 6, 2015.

The five CDs and the DVD shall be kept in the possession of the Portland City Clerk.

March 27, 2015

Mayor Michael Brennan
Portland City Hall
389 Congress Street
Portland, Maine 04101

CITY OF PORTLAND, MAINE

MAR 30 2015
City Managers Office

Re: B6 Zoning Change Request for Portland Company site

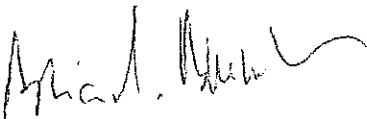
Dear Mayor Brennan:

I request that the attached letter, the two attached CD's of the Planning Board Meeting of 9/14/04, and the attached DVD of the City Council Meeting of 11/04 be made part of the Council record of proceedings on this request.

Copies of the attached letter have been provided to all Council members.

Thank you.

Truly yours,

A handwritten signature in black ink, appearing to read "Brian R. Burwell", with a stylized flourish at the end.

Brian R. Burwell
31 Fore Street
Portland, Maine

(207) 874-8722 tel.

wbn@portlandmaine.gov

>>> Malcolm Poole <mpoole@whshurtleff.com> 3/31/2015 10:50 AM >>>

Hello Bill,

I salute you for your work in moving this corner of the waterfront to its next great life.

It occurred to me as I read the article in the paper this morning about the up slope community and their angst about the developer altering their view scape that the air space above the land purchased and being permitted is not described as an economic value, at least in the article. It made me wonder if the up slope community might see an economic value and invest in that air space as part of their contribution to securing the view they desire, rather than leaving it all in an entitlement zone the city is being asked to mediate.

This thought, though not fully worked through, did seem a positive way for the City to facilitate a different kind of conversation. The forgone value of buildings allowed by the zone proposed but not built to accommodate the up slope community has an economic value that community might "invest" in this developers project and off set the developers "loss of opportunity".

Thanks for receiving my comment. Good luck with the process.

Malcolm Poole
207-885-1230

Sonia Bean - Fwd: Why view corridors in Building Height Study?

From: Christine Grimando
To: Bean, Sonia
Date: 4/1/2015 3:18 PM
Subject: Fwd: Why view corridors in Building Height Study?

Sonia,

Additional public comment. Mr. Burwell sent me a follow-up email requesting this get included in public comment to the Council.

Christine

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> Brian Burwell <burwell@maine.edu> 4/1/2015 3:14 PM >>>

Dear Councilor Brenerman,

You made a comment about the rationale for view corridors if all buildings on upper Fore were below street elevation.

There are two reasons:

- 1) The view corridor along the extension of Kellogg Street remains critical as a sight line regardless of the building height reductions below street elevations on upper Fore.
- 2) There are document "cleanup" issues with the Building Height Study that appears on line, and was provided to the City Clerk:
 - i) The Height Study is referred to as a "Draft Final Report". One would expect a cleaned up, final report in the Comprehensive Plan. "Draft" is an apt description of this document.
 - ii) The text on page 3 refers to Illustration 4. There is no Illustration 4 in the report. The text means to refer to Cross Sections A-E at the end of the report.
 - iii) Illustrations 19 and 21 through 30 are missing, or the intended illustrations were not re-labeled.
 - iv) The September version of Illustration 33 height overlay is an erroneous draft inconsistent with the height overlays reviewed and passed by the Planning Board on 9/14/04 and presented to the Council and public on 11/1/04 as the height overlay recommended by the Planning Board.

We have CDs of the 9/14/04 Planning Board public hearing and decision on the Building Height Study as it relates to the Portland Co site, and a DVD of the Council public hearing on 11/1/04 addressing the recommendations of the Planning Board. They make clear:

- a) All building heights were measured 2 feet above floodplain; and
- b) Building heights were dropped in the height overlay recommended by the Planning Board so that public views from upper Fore Street sidewalks and streets would be preserved.

We would like to make these CDs and DVD available to you. Slightly more than an hour is required to review the relevant sections.

Please email me at burwell@maine.edu or call me at 865-9350. I could drop them off in your City Hall mail box.

Sincerely,

Brian Burwell

(207) 874-8722 tel.

wbn@portlandmaine.gov

>>> Malcolm Poole <mpoole@whshurtleff.com> 3/31/2015 10:50 AM >>>

Hello Bill,

I salute you for your work in moving this corner of the waterfront to its next great life.

It occurred to me as I read the article in the paper this morning about the up slope community and their angst about the developer altering their view scape that the air space above the land purchased and being permitted is not described as an economic value, at least in the article. It made me wonder if the up slope community might see an economic value and invest in that air space as part of their contribution to securing the view they desire, rather than leaving it all in an entitlement zone the city is being asked to mediate.

This thought, though not fully worked through, did seem a positive way for the City to facilitate a different kind of conversation. The forgone value of buildings allowed by the zone proposed but not built to accommodate the up slope community has an economic value that community might invest in this developers project and off set the developers "loss of opportunity".

Thanks for receiving my comment. Good luck with the process.

Malcolm Poole

207-885-1230

Sonia Bean - Fwd: Why view corridors in Building Height Study?

From: Christine Grimando
To: Bean, Sonia
Date: 4/1/2015 3:18 PM
Subject: Fwd: Why view corridors in Building Height Study?

Sonia,

Additional public comment. Mr. Burwell sent me a follow-up email requesting this get included in public comment to the Council.

Christine

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> Brian Burwell <burwell@maine.edu> 4/1/2015 3:14 PM >>>

Dear Councilor Brenerman,

You made a comment about the rationale for view corridors if all buildings on upper Fore were below street elevation.

There are two reasons:

- 1) The view corridor along the extension of Kellogg Street remains critical as a sight line regardless of the building height reductions below street elevations on upper Fore.
- 2) There are document "cleanup" issues with the Building Height Study that appears on line, and was provided to the City Clerk:
 - i) The Height Study is referred to as a "Draft Final Report". One would expect a cleaned up, final report in the Comprehensive Plan. "Draft" is an apt description of this document.
 - ii) The text on page 3 refers to Illustration 4. There is no Illustration 4 in the report. The text means to refer to Cross Sections A-E at the end of the report.
 - iii) Illustrations 19 and 21 through 30 are missing, or the intended illustrations were not re-labeled.
 - iv) The September version of Illustration 33 height overlay is an erroneous draft inconsistent with the height overlays reviewed and passed by the Planning Board on 9/14/04 and presented to the Council and public on 11/1/04 as the height overlay recommended by the Planning Board.

We have CDs of the 9/14/04 Planning Board public hearing and decision on the Building Height Study as it relates to the Portland Co site, and a DVD of the Council public hearing on 11/1/04 addressing the recommendations of the Planning Board. They make clear:

- a) All building heights were measured 2 feet above floodplain; and
- b) Building heights were dropped in the height overlay recommended by the Planning Board so that public views from upper Fore Street sidewalks and streets would be preserved.

We would like to make these CDs and DVD available to you. Slightly more than an hour is required to review the relevant sections.

Please email me at burwell@maine.edu or call me at 865-9350. I could drop them off in your City Hall mail box.

Sincerely,

Brian Burwell

APR - 2 2015

City Managers Office

CHESTER & VESTAL

A PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

107 Congress Street, Portland, Maine 04101

Telephone (207) 772-7426 Fax (207) 761-5822

EDWIN P. CHESTER
BARBARA A. VESTAL
MICHAEL P. DIXON

chester@chesterandvestal.com
vestal@chesterandvestal.com
dixon@chesterandvestal.com

April 2, 2015

HAND DELIVERED

Sonia Bean
Senior Administrative Assistant
Executive Department
City of Portland
389 Congress Street
Portland, Maine 04101

Re: 58 Fore Street, Portland Company Complex

Dear Ms. Bean:

Enclosed are the following documents, which supplement the "red notebook" documents submitted by me on March 23, 2015.

- 1) Copy of an email I sent to the named recipients on March 30, 2015;
- 2) Copies of the attachments to my March 30, 2015 email, which are the maps for alternatives 1A and 1B (with red magic marker) that were in front of the Planning Board in 2004. Those maps were scanned in color. For sake of legibility, here they are attached with each map divided in half, each half on an 8.5 x 11 sheet of paper.

- 3) A document entitled "Relevant Meeting Transcripts, with annotations" (11 pages).

At the March 30, 2015 workshop, Jeff Levine seemed to make the assertion that he had listened to the tape of the September 14, 2004 Planning Board meeting and concluded that what the Planning Board had adopted was lower heights but measuring from average grade. That is patently absurd and not supported by an iota of evidence on the tape or in the multiple documents associated with that meeting.

I am requesting that this letter and all of the attachments to this letter be included in the record and distributed to the Mayor and Councilors.

Similarly, if the "red notebook" documents, as indexed on the first two pages of the notebook, have not already been included in the record, I request that they be included in the

record as well.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Barbara A. Vestal', with a stylized, cursive script.

Barbara A. Vestal

BAV/om
Enclosures

cc: Mayor Michael Brennan, with attachments



Barbara Vestal <vestal@chesterandvestal.com>

Portland Company; Rebuttal of Staff and Applicant Memos; More new information for 3/30/15 workshop

9 messages

Barbara Vestal <vestal@chesterandvestal.com>

Mon, Mar 30, 2015 at 12:22 PM

To: Michael Brennan <mfpb@portlandmaine.gov>, Christine Grimando <CDG@portlandmaine.gov>, Jeff Levine <jlevine@portlandmaine.gov>, Kevin Donoghue <kjdonoghue@portlandmaine.gov>, David Marshall <dmarshall@portlandmaine.gov>, Ed Suslovic <edsuslovic@portlandmaine.gov>, Justin Costa <jcosta@portlandmaine.gov>, David Brenerman <dbrenerman@portlandmaine.gov>, Jill Duson <jduson@portlandmaine.gov>, Jon Hinck <jhinck@portlandmaine.gov>, Nicholas Mavadones <nmm@portlandmaine.gov>
Cc: Charles Remmel <cremmel@krz.com>, Jennifer Archer <jarcher@krz.com>, Mary Costigan <MEC@portlandmaine.gov>

Bcc:

Mr. Mayor and Councilors,

Apologies for yet another communication on this topic, but there is no other opportunity to respond to the materials provided to you in your workshop packet.

Staff Memo: I am disappointed, but not surprised, that Planning Staff is providing you with the same cursory lack of analysis that caused the Planning Board to make a decision based upon a mistake of fact. This staff discussion completely ignores the materials contained in tab 7 of the red notebook prepared by me, and additional materials attached hereto that were readily available to staff had they sought them out.

These materials incontrovertibly document the Nov. 1, 2004 Illustration 33, which superceded the deficient September 2004 version, is what was before the Council and it also correctly reflects the substance of what was recommended by the Planning Board. They all specify heights on the Portland Company site are to be measured from flood plain. The Sept 2004 version of Illustration 33 was an interim, deficient consultant deliverable; it was never in front of the Planning Board and incorrectly represented the Planning Board recommendation.

The following discussion substantiates the following **timeline**:

Planning Board public hearing, 9/14/04: Height recommendation adopted by the Planning Board, represented on hand-drawn map using August 2004 Illustration 33 base map, "from flood plain" printed on Portland Company site in 3 places. The August 2004 Illustration 33 base map was the only comprehensive plan element map presented to the Planning Board. (There were B-6 related maps, which also indicated flood plain for the Portland Company site.)

September 2004: Some time after the Planning Board meeting, the consultant generated the September 2004 version of Illustration 33, deleting the words "from flood plain" on the map itself but, by mistake, not addressing it elsewhere. That version was included in the packet that went to Council in October.

November 1, 2004: Staff and/or consultant realized that the Sept 2004 version of Illustration 33 failed to accurately communicate the Planning Board premise that the recommended heights east of Mountfort Street are to be measured from flood plain. A new note #2 was inserted on the November 1, 2004 version of Illustration 33, specifying floodplain measurement east of Mountfort Street, as was the underlying specification of the Planning Board. That updated version of Illustration 33 was presented to the Council on Nov. 1, 2004, its first workshop and the first public hearing on the matter. It was not debated by Council; it is an underlying fact of the Building Height Study as recommended by the Planning Board.

Dec. 8, 2004: The Council adopted the Building Height Study as part of the Eastern Waterfront Master Plan without any discussion of whether certain heights should be measured from flood plain. That they are to be measured from flood plain, as shown on the November 1, 2004 Illustration 33, was an accepted matter of fact.

Unknown date: The superceded September Illustration 33 incorrectly shows up on line as part of the Eastern Waterfront Building Height Study.

Applicant's Memo: Ms. Costigan tries to obscure the matter by claiming that an amendment was needed in order to "adopt" the November 1, 2004 Illustration 33. That is incorrect. How heights were to be measured was a statement of fact, not a policy matter. It was, in fact, correctly characterized as such by then Mayor Smith in the tab 7 transcript. The November 1, 2004 Illustration 33 is consistent with the materials presented to and approved by the Planning Board. No amendment was necessary to substitute the November 1, 2004 illustration, which corrected the deficient September 2004 version of Illustration 33 by adding note #2 on measurement from flood plain east of Mountfort Street.

Intent of the Planning Board, Don't Break the Grade of Fore Street, Preserve the Vista: At the Portland Planning Board public hearing of September 14, 2004, Mitch Rasor, the height consultant explained that they had prepared an alternate "1B" for consideration which lowered the permissible heights after public outcry. Using a map with "from flood plain" printed in three separate places on the Portland Company site, he said:

And then here you can see this upper Fore, which area is Atlantic, St. Lawrence and Waterville, and this was of much concern at the last meeting. And we had created a model that showed these buildings going up approximately two stories above the grade here. And so what we have done here is brought those towers down, the maximum height of towers, so that they don't break the grade there, and the panoramic view which we now enjoy is maintained. (CD #1, 27:45)

Direction of the Planning Chair, Staff to Craft Precise Technical Language: The tape of the meeting verifies that the Planning Board had before it what had been advertised and an alternate "hand drawn" map, identified as "1B," which had lower heights. At the close of the public comment portion of the meeting, before they adopted the hand-drawn, lower height version, then Chair Delogu laid out the process for the Planning Board to take action on alternatives before them, stating:

So how we answer each of those suggestions . . . will allow the staff, between whatever action we take tonight and presentation of this to the City Council, to craft the precise language. We are not going to craft that language sitting on our knee tonight but the precise technical language will be added in, reflecting the sense of the board. So with that, is there a motion. (CD#1, 47:30)

The Planning Board went on to adopt the hand-drawn lower heights version. The actual maps that were in front of the Planning Board are attached hereto as exhibits PBA and PBB. They were working from August 2004 base maps, both of which state in 3 places on the map itself on the Portland Company site, "from flood plain."

As authorized by Chair Delogu, the staff continued to refine the technical language prior to presentation to the City Council. It was an iterative process. At some point the September 2004 Illustration 33 was generated by the consultant. Note that the Sept 2004 illustration 33 (tab 10) was never in front of the Planning Board. It was generated by the consultant after that meeting. It erroneously deleted the "from flood plain" designations on the map itself without moving that information into a note. Before the presentation to the Council on November 1, 2004, staff and/or the consultant realized the oversight and corrected it in the Nov 1, 2004 version of Illustration 33, adding the technical language in a new Note #2 stating precisely how heights are to be measured from flood plain, as had been the recommendation of the Planning Board.

The Planning Board recommendation is consistent in all respects with the Nov 1, 2004 version of Illustration 33 (tab 7). The November 1, 2004 version is what was in front of the City Council for action. A deficient version of Illustration 33, generated by the consultant in September after the Planning Board meeting, and self-corrected on Nov. 1, 2004 before it went to the Council for substantive action, does not require a motion to amend by the Council. It was not a matter in controversy. It was a technical correction to a map which had imperfectly communicated the Planning Board's September 14, 2004 recommendation.

Respectfully Submitted,

Barbara Vestal

—
Barbara A. Vestal, Esq.
Chester & Vestal, PA
107 Congress Street
Portland, Maine 04101
(207) 772-7426 - phone

(207) 761-5822 - facsimile

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this message in error, please notify us immediately by telephone and e-mail.

2 attachments



58 Fore - Exhibit PBA.pdf

131K



58 Fore - Exhibit PBB.pdf

172K



AT THE CORNER OF THE STREET

EST. 10' MIN. SIDEWALK WIDTH

NO BUILDING ABOVE 5 FLOORS
STREET ELEVATION

CONGRESS

GENERAL NOTES:

1. NO BUILDING ABOVE 5 FLOORS SHALL BE WIDER THAN 70' PARALLEL WITH THE WATERFRONT AND LONGER THAN 140' PERPENDICULAR WITH THE WATERFRONT
2. 70' WIDE TOWER/BUILDING AREAS ARE A MINIMUM OF 140' APART, MEASURED PARALLEL WITH THE WATERFRONT
3. NO BUILDING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION

CONGRESS

EAST FEDERAL

EAST NEWBURY

MIDDLE

WARREN

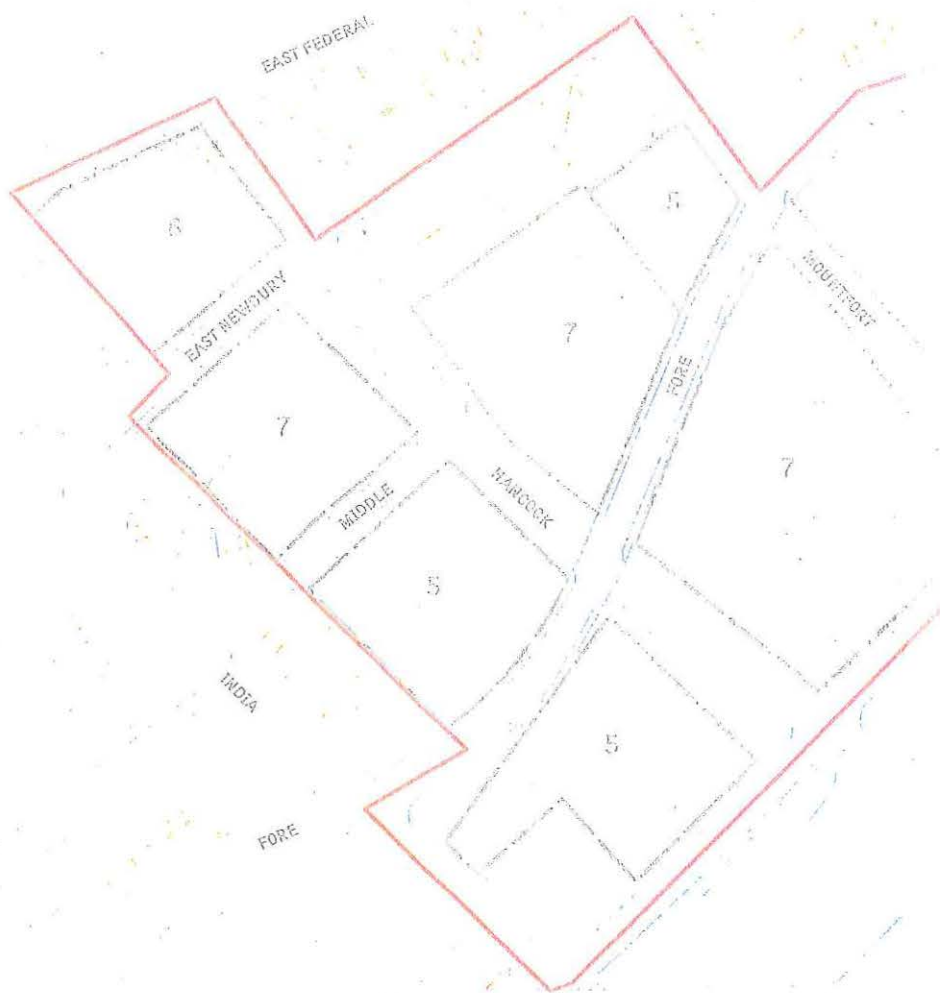
INDIA

FORE

FORE

WATERFRONT

FRANKLIN



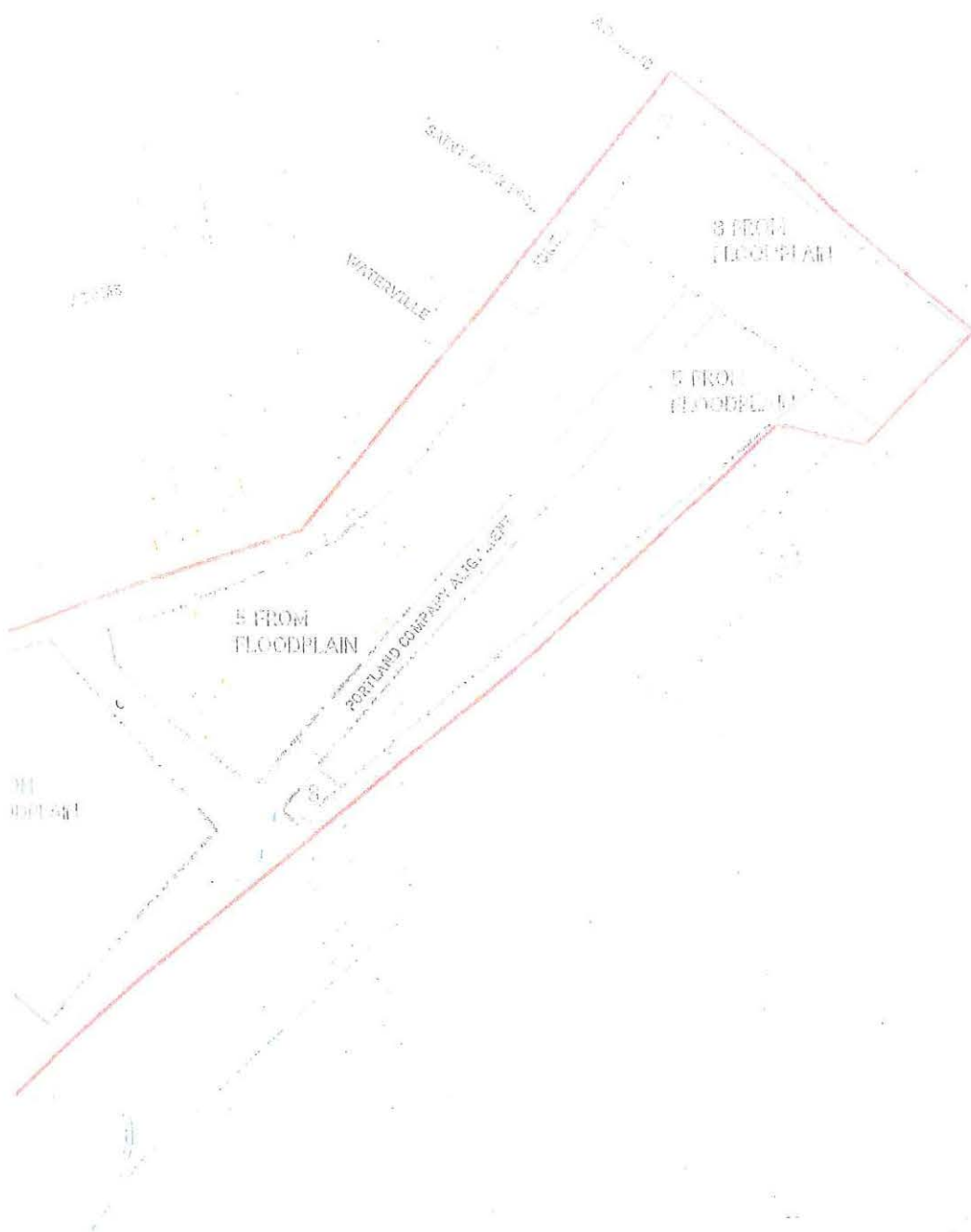


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPE

Eastern Waterfront Building Height Study
Portland, Maine

August 2009

STUDY AREA OF KEY BUILDING

KEY BUILDING ENVELOPES BY HEIGHT

NO BUILD ABOVE RELATIVE FORE
STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS LOCATED EAST OF HANCOCK STREET OR ITS EXTENSION, NO BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT FOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
2. THE 70 FOOT WIDE TOWERS, AS ALLOWED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PARALLEL WITH THE WATER.
3. NO-BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDINGS ALLOWED ABOVE THE CORRESPONDING FORE STREET ELEVATION.
4. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES



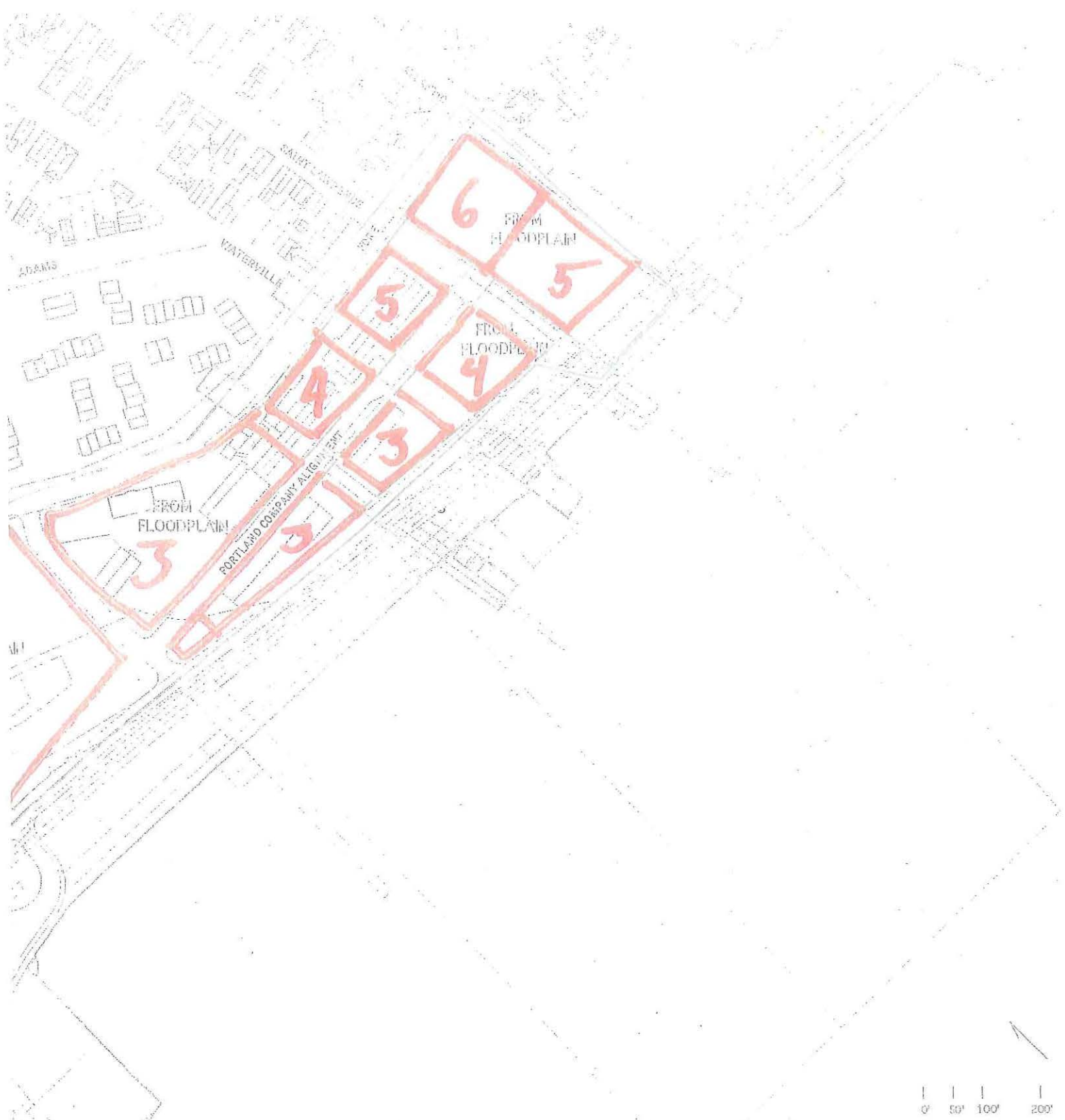


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES

Eastern Waterfront Building Height Study
Portland, Maine
August 2004

Relevant Meeting Transcripts, with annotations. Transcripts prepared by Vestal except for #5, which was transcribed by Atty. Remmel's office and reviewed by Barbara Vestal. Submitted to the Portland City Council on 4/2/15.

Transcript 1 –

At the City of Portland, Planning Board Public Hearing on September 14, 2004, there was a presentation by consultant, Mitchell Rasor of MRLD who had been hired by the City to prepare the Eastern Waterfront height study.

The planning board had seen it in workshop a couple of weeks previously. Then there had been a very-well attended public meeting at Adams School.

During the 9/14/04 Planning Board public meeting, (20:41 minutes into the meeting) Mr. Rasor explained that he had used a concept of "Shadow zones" where he identified the opportunity for some additional height in the area which wouldn't impact houses uphill from that. He identified three areas with for potential for height and massing that would not adversely impact uphill neighborhoods, one of which he identified as the upper Fore shadow.

Mr. Rasor explained that they had a public meeting on Munjoy Hill the week before and as a result of the negative comments at that meeting, they were providing the Board with an alternative to the proposed heights that had been advertised for the Planning Board meeting. He said at minute 24:16: In general heights have come down to roughly what the zoning allowed at time, except in a couple of areas QUOTE "where there is still some potential to go a little higher, **but making sure, now,** not to break the Fore Street plane."

And then again at minute 27:45, in the course of his presentation, Mr. Rasor said QUOTE: "And then here you can see this upper Fore, which area is Atlantic, St. Lawrence and Waterville, and this was of much concern at the last meeting. And we had created a model that showed these buildings going up approximately two stories above the grade here. And so what we have done here is brought those towers down, the maximum height of towers, so that they don't break the grade there, and the panoramic view which we now enjoy is maintained."

(Emphasis added.)

Transcript 2 –

Transcript from the Portland Planning Board public hearing, September 14, 2004. Chair Delogu had observed previously that there were about 100 members of the public in attendance. This is a transcript of the statement made by the first speaker at the public hearing, starting at minute 48:48, who summarized the neighborhood concerns so well:

Minute 48:48, tape 1,

Ben Dudley: Good Evening, Chairman Delogu, Members of the Planning Board. My name is Ben Dudley.

I am a resident of Ponce Street, and I also have the privilege of serving Munjoy Hill in the State Legislature. I believe first and foremost that redevelopment of the Eastern Waterfront is possible with broad neighborhood support. To that end, I also believe that the emphasis should be on making the development fit the neighborhood, and not making the neighborhood adjust to the development.

The originally proposed B-6 zone was overly ambitious and an affront to neighborhood scale and character. The changes that I have seen this evening are certainly very encouraging to me and I think to many of the folks here. Certainly I would be curious to see more detail and more of the before and after shots. But I am extremely encouraged by the changes I have seen here this evening.

I would say that most, if not all of us in the neighborhood, are supportive of the careful redevelopment of this part of Portland's waterfront. And we are certainly grateful for the respectful engagement of our neighborhood in this process.

But we do have greater concerns about the proposal. Objections have been that the zone as it was proposed, as we saw last week, would obstruct neighborhood views, which would have harmed property values, quality of life and neighborhood character. Additionally, many of us have concerns regarding the lack of guarantees that affordable housing will be constructed. We have concerns about adequate green and open space. And we have concerns about the impacts of traffic and parking demands on the neighborhood.

In conclusion, I would say that as city dwellers, we forfeit the opportunity for sizeable private property, in favor of neighborhood character, and on Munjoy Hill, physical and visual access to the water. Whether this access is from your home, from your car, or as you are walking through the neighborhood on sidewalks or otherwise, it is a value held dear by all neighborhood residents.

And, I continue to be encouraged by the movement , and I hope and believe that we can find common ground.

Chair Delogu: Thank you.

Ben Dudley: Thank you. (51:00)

Spontaneous applause from many in attendance.

(Emphasis added.)

Transcript 3–

During the September 14, 2004 Planning Board meeting, they had concluded the public hearing and were determining how to proceed. Chair Delogu was proposing that they go through the unresolved issues identified by staff and “take a quick sense of the board” on each of those issues identified by staff.

He continued to state at minute 47:30 QUOTE

“So how we answer each of those suggestions . . . will allow the staff, between whatever action we take tonight and presentation of this to the City Council, to craft the precise language. We are not going to craft that language sitting on our knee tonight but the precise technical language will be added in reflecting the sense of the board. So with that, is there a motion.”

The Board went on to adopt the lower heights. The staff continued to refine the technical language. Part of that process seems to be to recognize that a mistake had been made on the Sept Illustration 33. When it was converted to that form, the designation of “from flood plain” which had appeared within the outlines of the blocks east of Mountfort Street extension when it went to the Planning Board were removed but not moved to a note. For the presentation to Council, that flood plain designation, in technical language was added through the Nov 1, 2004 diagram, consistent with the sense of the Board.

Transcript 4 –

On September 14, 2004, the Planning Board had before them the original higher heights (1A) and the revised lowered heights (1B).

Chair Delogu summarized what turned out to be the majority position of the Board, when at minute 58:39 he said in support of the alternative, lowered heights: QUOTE:

“I thought the comment that was the most telling in both the consultant’s views and Bill Needleman’s comments just two minutes ago was that most of what we seek to achieve, most of what we seek to achieve in this transition zone can be achieved within the parameters of 1B. Some, perhaps of the most dramatic, the most exciting possibilities will be foregone if we do not allow these more striking heights. But there are other areas of the City, along the spine of the City, in areas where there will not be the potential for view impairment quite in the same way there would be here. Where perhaps these more dramatic gestures ought to be permitted, are permitted, can be undertaken, if there is a developer ready to take that step. I guess I think 1B is not a copout. It allows for some exciting buildings to be built in what we hope will be a transition neighborhood. It allows for most of the views on the Hill to be preserved. It achieves the objectives the master plan. I think it is a small accommodation to the shortness of life in that it may produce some support within the Hill. There will be some of the Hill who will not support anything that represents a build- out in this area. But I think most of the Hill is prepared to recognize that there will be development here. It can be done well, it ought to be done well, with a little more modesty. And I think that B gives us that modesty. And they can support that. And I am hopeful that we can have that support at the point in time that this gets to the City Council.”

(Emphasis added.)

Transcript 5-

On November 1, 2004, there was an exchange between then Mayor Nathan Smith and Bill Needleman regarding how to measure heights. It went as follows:

Mayor Nathan Smith: "The third question that I have written down here is it was a question about how to measure height and how was it measured and I wonder which one of you wanted to explain that provision briefly please for all of us.

William Needelman: "Generally in the city the zoning administrator measures height from average grade. If a sloping site is developed then the zoning administrator takes the elevation of each four corners of the building, creates an average and then measures up from there. Because of the extreme changes in grade we find on the eastern waterfront, for, these are included in the notes on both drawing A and on Drawing B, note number 2 on Drawing A and note number 5 on Drawing B. East of Mountfort Street building elevations are tied to two feet above flood plain, which is the buildable elevation. So there would be no chance of a developer grabbing a foothold on upper Fore Street and averaging grade and going up higher."

Mayor Nathan Smith: "Gotcha yup."

William Needelman: "That ok?"

Mayor Nathan Smith: "Yes, that's very helpful. Thank you. I think I've got the factual questions. Everything else is policy I guess that was brought up and council can address that in due course." END QUOTE

How heights were to be measured was a matter of FACT, not policy. It was a note on the map, the Nov 1, 2004 Illustration 33. It was not a matter of policy, not a matter of contention, not a matter which required an amendment.

Transcript 6 –

At the Portland Planning Board meeting of 2/24/15, the Planning Board had closed the public hearing and was trying to decide how to handle the materials submitted by Barbara Vestal. After a statement by Alex Jaegerman, Christine Grimando stated: QUOTE

[49:30] **Christine Grimando:** May I add a little bit to that?

O’Brion: Yeah.

Grimando: As far as our review, my review of this document with staff, did recommend support of, uh, measurement from average grade, uh. That was based on the documents that were actually approved and implemented, and we were well aware that flood plain was, uh, part of the discussion, um, as these documents, uh, that were handed out to you tonight show, but the actual documents that were then implemented don’t actually reference flood plain, um, it’s not a mandate in the actual, uh, Comprehensive Plan document, and the only reference to, uh, measurement—it doesn’t, it’s not discussed in length, but there is one reference to how heights are measured on Illustration 33, and it does say east of Hancock Street extension from average grade. Uh, so there clearly were many iterations of this, and many things were discussed. The final implemented document is what we based our eventual recommendation on.
END QUOTE

This misstated what appears on the Sept 2004 version of Illustration 33. The only reference to average grade is an attempt to describe what constitutes a 4 story building, and does not talk about how to measure the heights of buildings themselves. The note on the Sept 2004 Illustration 33 is, perhaps a little garbled, but it does not, as Ms. Grimando stated, say that “east of Hancock Street extension from average grade.” To be accurate, it says: “For buildings east of Hancock Street or its extension, no building mass above 4 floors (45 feet above the average grade) shall be wider than 70 feet parallel with the waterfront nor longer than 140 feet perpendicular with the waterfront.”

It should be noted that this same note appears on the Nov 1 2004 version which specifies the height of buildings east of Mountfort St. shall be measured from 2’ above flood plain elevation. They are not mutually exclusive.

Transcript 7 –

Immediately after Ms. Grimando's statement at the 2/24/15 Planning Board meeting, attorney for the applicant, Mary Costigan, spoke up and said QUOTE

[Track 6; 5:30] **Mary Costigan:** . . . I completely agree with Christine. . . . This same exact conversation happened ten years ago. Did we want buildings above Fore Street or don't we or how tall are they going to be, and the result was what was actually adopted." END QUOTE

Ms. Costigan correctly notes that the same exact conversation happened in 2004 about whether we wanted buildings above Fore Street. **BUT what she fails to acknowledge is that in the Portland Company upper Fore shadow area, the resolution at the Planning Board was that we did not want buildings above the grade of Fore Street.**

Ms. Costigan went on to claim that in the September 2004 version of Illustration 33 QUOTE " in the notes actually says, refers to above average grade. It says it. "

Note that is the same mistaken assertion as Ms. Grimando. It has the words average grade, but it is defining a 4 story building, not saying how height is to be measured.

Then Ms. Costigan went on to state QUOTE "Um, where flood plain came into play was at the adoption of the overlay, and the Portland Company property was not in, in play then, and it was a last-minute amendment by councilors who wanted to talk about flood plain. Other than that, you know, it's a property that doesn't have the contours, it's a property that completely doesn't apply . . . ", END QUOTE

Ms. Costigan keeps repeating this claim that the B-6 note saying heights east of Mountfort Street are to be measured from flood plain was a last minute amendment by councilors. **That is just not true.** As clearly indicated on the documents submitted by Barbara Vestal, for the Portland Company site, from the

very first consultant's draft in August 2004, heights were to be measured from flood plain. That was consistent throughout the process. The only exception was the Sept 2004 Illustration 33, which was updated to fix that omission in November 1, 2004. **No Council amendment even addressed measurement from flood plain. It was already an accepted fact. Councilor Gorham's amendments all addressed heights, not method of measuring heights. Flood plain measurement was not something the Council pulled out of their imagination at the last minute; it was an assumption used throughout the height study.**

Transcript 8 –

At the 2/24/15 Planning Board meeting, Chair O’Brien summarized the height discussion as follows:

Track 6, Minute 7:07: Stuart O’Brion: Um, does anyone have, uh, any other questions on this height issue? Um, I think I would just say, from my point of view there’s two issues. There’s the issue we’ve spent a lot of time on, about the consistency with the way the City approaches height across the city, uh, and our belief as the planning board in charge of balancing all of these different interests of the importance of consistency. Um, and the lack of, uh, and the overriding reason to treat this site in a different manner, from my point of view. Everyone’s free to disagree. And then the evaluation that we’re doing now about the zone change proposed being consistent with the comprehensive plan and all the elements as a whole. So as you look at the height issue I urge you to frame it in that way.

Mr. O’Brien placed great emphasis on consistency with the way the City approaches height across the city. Admittedly that is average grade, **except** in the block east of Mountfort Street Extended in the B-6 zone, and **except** in the Waterfront Special Use Zone (WSUZ) which currently applies to 58 Fore Street, where heights are capped at 65 feet above sea level.

He found that there was a lack of an overriding reason to treat the Portland Company site in a different manner.

But that ignores the premise of the height study, the fact that the maps have stamped on them “from flood plain”, and the fact that the 2004 Planning Board and 2004 City Council recommendations on height were all based upon the heights being applied from flood plain in the part of the Eastern Waterfront east of Mountfort Street.

It should be noted that the Planning Board did not have the benefit of all of the information that has been submitted to the Council because, despite repeated requests, the Planning Staff did not disclose to the public the existence of additional materials in the Planning “vault” until after the February 24, 2015 Planning Board meeting.

Transcript 9-

At the Planning Board meeting on 2/24/15, planning board member Bill Hall expressed his discomfort with the process. He stated QUOTE:

[Track 6; 18:40] **Bill Hall:** Sounds like we're, uh, moving in the direction of being in favor of this. The, uh—Shaun, I appreciate your comments about treating it as a zoning change. Um, the uh, but, but you are—we are kind of operating in the dark. You know, when you, when you get a zoning change you wonder what are the implications of that, what's really going to be the build-out. And in a lot of cases when we've had zoning change proposals in the past, we've also had a concept plan that comes with it. It gives you a better picture of what might happen – now the concept plan may not be what's actually executed, or you may not even like it for that matter, but it does give you a little light in the darkness. Because really when you're dealing with a zoning change there are a million possibilities. So, it makes me a little uncomfortable when I'm looking at this, just from a zoning perspective. Uh, not to say I'm not going to think this is actually a good idea, because I think it is, but we do have a bit of a mystery when you're making a zoning change with really no idea what's going to go in there. Jack, I really appreciate your comments about having empathy, sympathy for the folks who know that the potential is for Fore Street to change and that vista to change. And I think that's true too, and that didn't also influence my decision, really, in favor of this project. I think, I think overall there's some really good reasons why you would probably have to have some projection above Fore street in order to have a viable project. I do think the height measurement method was an interesting item tonight. I think it was presented in a way—the flood plain issue was presented in a way that was a little clearer, a little more coherent than we'd seen in the past. And it got me a little bit concerned, so Christine I'm relying on you and your assurance that this is—measuring the height from average grade is consistent with the comprehensive plan. I'm really relying on that assurance, because I think we had a more powerful presentation tonight that there's some ambiguity about that issue. So, I'm relying on you, Christine. END QUOTE

We assert the Planning Board made its decision based upon a mistake of fact, relying upon the misrepresentations of the applicant and staff as to what was adopted in 2004.

Sonia Bean - 58 Fore st

From: Maria Lopez <consuelopez48@hotmail.com>
To: "CDG@portlandmaine.gov" <CDG@portlandmaine.gov>
Date: 4/2/2015 8:34 PM
Subject: 58 Fore st

April 2, 2015

Dear Mayor and City Council,

The 58 Fore Street. Property is an great opportunity to highlight the beauty of the area. The current rezoning proposal was recommended unanimously by the Planning Board, after spending months listening to public interests, comments and concerns and reviewing the extensive Eastern Waterfront Master Plan process as well.

As a resident of the Portland, I think the city needs a portion of the waterfront where people can enjoy being on the water and next to it with a modern facility like the big cities. This rezoning would get us one step closer to that vision. In summary, it's very fair to say that the vast majority of the people in this city will benefit from this eventual redevelopment in some way.

The community realizes that this is a very important decision. We ask you to focus on what a tremendous opportunity this is for the city of Portland as a whole.

For the reasons stated above, I strongly encourage you and the council to approve the CPB2 rezoning application.

Sincerely

Maria Lopez

125 longfellow st

Portland, ME 04102

Maria Lopez. Sent from my iPhone

Sonia Bean - Fwd: 58 Fore Street: City Council Meeting April 6th - Letter of Support

From: Christine Grimando
To: Bean, Sonia
Date: 4/3/2015 11:00 AM
Subject: Fwd: 58 Fore Street: City Council Meeting April 6th - Letter of Support

Sonia,

Additional public comment.

Christine

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cde@portlandmaine.gov
Ph: (207) 874-8608

>>> Alan Fernald <alan@opuscg.com> 4/3/2015 10:58 AM >>>

Dear Planning Coordinator Grimando,

As a young professional in the city of Portland, I write to urge Mayor Brennan and Members of the City Council to vote in favor of the proposed zoning map and text amendments for 58 Fore Street - as recommended unanimously by the present Planning Board.

This is a tremendous opportunity for the city of Portland to establish itself as not only a great city to live, but as a vibrant and economically developing city as well. I've been down to the 58 Fore Street property and have long felt that it would be amazing to see it redeveloped. Many other cities on the east coast have experienced positive, organic growth in the recent number of years as a result of well designed waterfront developments - this is Portland's chance at the same. To be clear, if these local developers don't find strong support with the city council, it is unlikely that you will find another developer willing to take the risk - the land will remain underutilized.

It's critical that we come together to support the rezoning of the site as proposed by the CPB2 team. Again, they are a local developer, live and work in the Portland community, and their application is entirely consistent with the adopted eastern waterfront master plan.

In support of the rezoning, I believe it's important that both the city council and community focus on the following points

- This was a unanimous Planning Board recommendation, after six months of public process where all interested parties' concerns were aired and considered.
- The property owners' application and vision (<http://cpb2.com/design-principles.php>) are meticulously in keeping with the community vision expressed in the Comprehensive Plan.
- Approving the zone will benefit the neighborhood and entire city in major ways:
 - greater public access to the historic core, the Eastern Prom Trail and to the waterfront;
 - creation of an economic model that will support the adaptive reuse of the historic core;
 - a major increase in desperately needed housing stock;
 - a major increase in property tax revenue to the city (ultimately more than a million a year);

- This project is a major opportunity to solidify Portland's place on the map and this will attract new businesses, young professionals, additional tourism -- all of which is good for every resident of Portland

We all realize that the council is tasked with difficult decisions -- I respectfully believe this one to be nearly unanimously favorable to the residents of the city of Portland. As a result, I strongly encourage you and the council to approve the CPB2 rezoning application.

Best regards,

Alan Fernald
Opus Consulting Group
o: 207 - 619 1899 | c: 612 - 719 - 3281
www.opuscg.com

Order 185 - 14/15
~~Tab 14 3-16-15~~
Tab 29 4-6-15

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

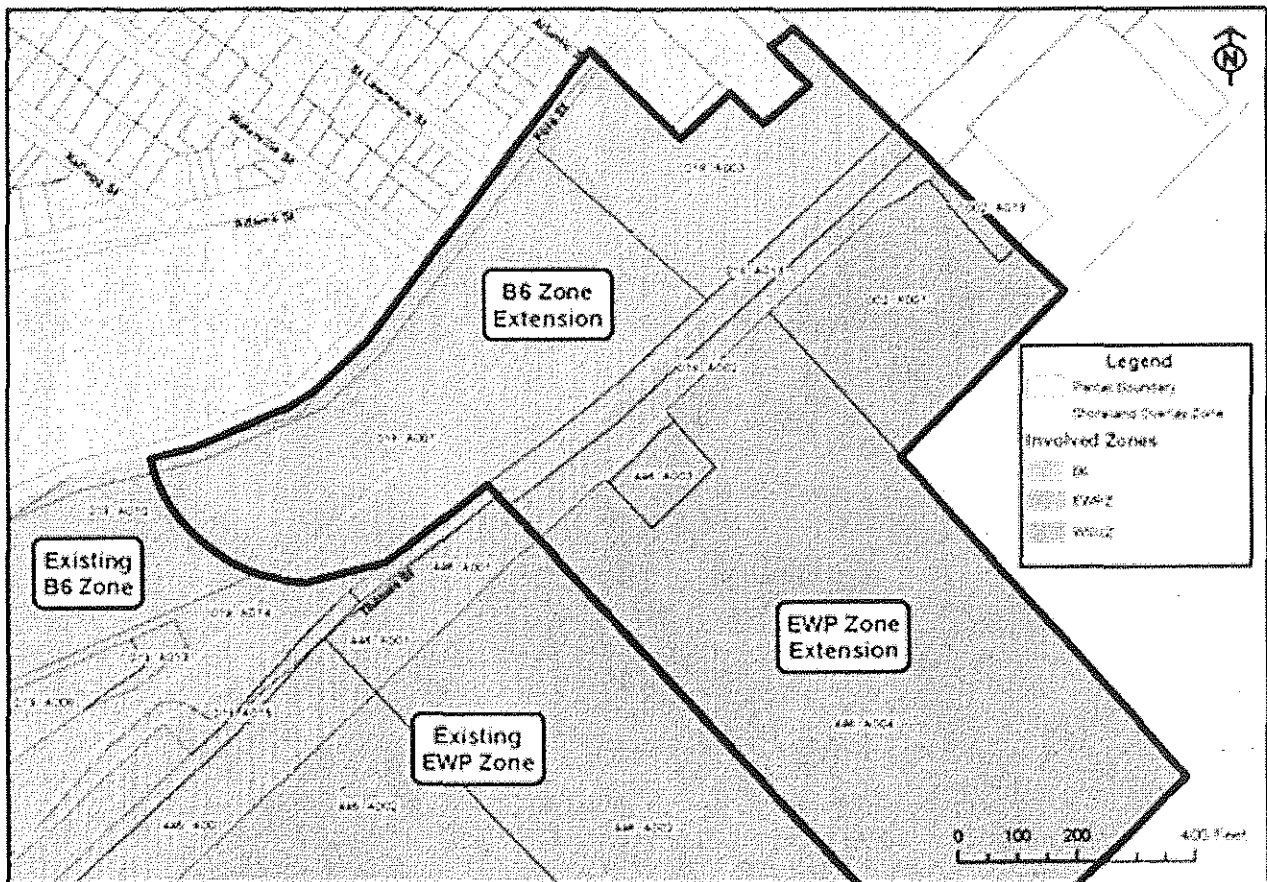
**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENNERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

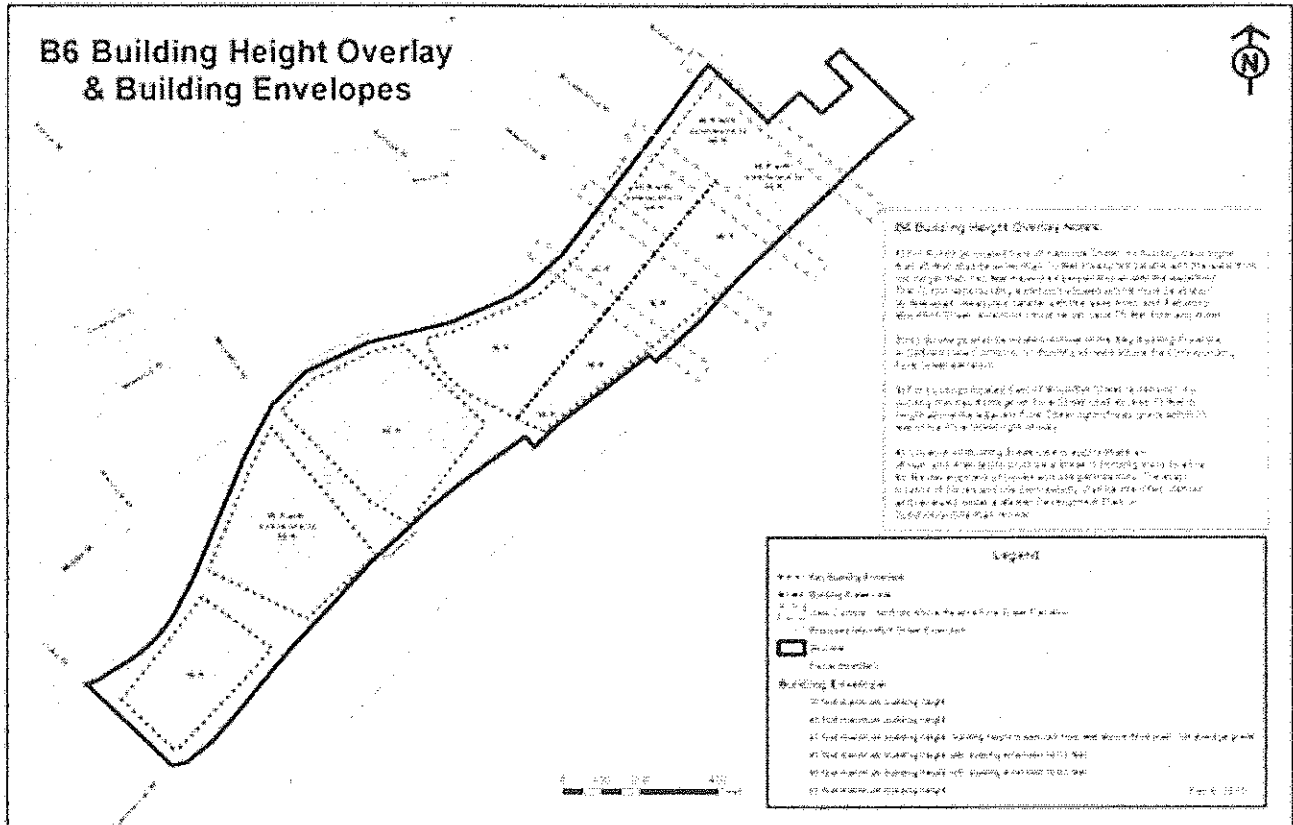
**AMENDMENT TO ZONING MAP
RE: 58 FORE STREET**

**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 and specifically rezoning the Waterfront Special Use Zone (WSUZ) which includes the property at 58 Fore Street (known as the Portland Company Complex) and adjoining parcels along the waterfront, to the B-6 Eastern Waterfront Mixed Zone and the Eastern Waterfront Port Zone (EWPZ) and eliminating the WSUZ zone as depicted in the following area map; and



57



*Order 203-14/15
Feb 30 4-6-15*

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DISCONTINUING A PORTION
OF CLEEVE STREET**

IT IS HEREBY ORDERED, that, pursuant to 23 M.R.S.A. § 3026, having given best practicable notice to all abutting land owners and to the City of Portland Planning Office, a portion of Cleeve Street, as described on Attachment 1, be and hereby is discontinued as a city street or town way, the City reserving a public easement for pedestrian and other limited passage over a part of the discontinued portion of Cleeve Street as described in Attachment 2. The City does not reserve a public utility easement for any public utilities; and

BE IT FURTHER ORDERED, no damages are to be paid in connection with this Order to Discontinue.

ATTACHMENT 1

A certain lot or parcel of land situated on Great Diamond Island in the City of Portland, County of Cumberland, and State of Maine, being a portion of Cleeve Street as accepted by the City of Portland on November 8, 1892, and more particularly bounded and described as follows:

COMMENCING at the intersection of the westerly line of Crescent Avenue with the southeasterly line of Diamond Avenue;

THENCE S 66° 03' 54" W 111.59 feet, more or less, along the southeasterly line of Diamond Avenue to the **POINT OF BEGINNING**;

THENCE S 11° 36' 08" E 38.32 feet, more or less, along land now or formerly of Diamond Island Association as described in a deed recorded at the Cumberland County Registry of Deeds in Deed Book 492, Page 259, to a point along the northerly line of Cleeve Street;

THENCE S 76° 06' 56" E 120.77 feet, more or less, along said land now or formerly of Diamond Island Association and the northerly line of Cleeve Street to a point at the intersection of the northerly line of Cleeve Street with the westerly line of Crescent Avenue";

THENCE S 11° 36' 08" E 9.69 feet, more or less, along the extension of the westerly line of Crescent Avenue and crossing through Cleeve Street to an angle point;

THENCE S 16° 58' 04" W 41.31 feet, more or less, to a point at the intersection of the southerly line of Cleeve Street with the westerly line of Meadow Avenue;

THENCE N 76° 06' 56" W 219.65 feet, more or less, along the southerly line of Cleeve Street to an angle point in the easterly line of Bay Avenue;

THENCE N 11° 36' 08" W 17.91 feet, more or less, along the easterly line of Bay Avenue to a point at the intersection of Bay Avenue with the southeasterly line of Diamond Avenue;

THENCE N 66° 03' 54" E 111.59 feet, more or less, along the southeasterly line of Diamond Avenue to the **POINT OF BEGINNING**.

Bearings are based on the Maine State Coordinates, West Zone, NAD 1983, HARN, Grid North, and field surveys conducted by the City of Portland, Department of Public Services, Engineering Division.

Reference is made to a plan titled "Plan of a part of Diamond Island" dated 1882 on file as plan number 362/6 in the Engineering Archives of said Engineering Division.

Reserving, however, to the City of Portland a public easement for access to and from the so-called Bay Avenue and more particularly described in Attachment 2, attached hereto.

ATTACHMENT 2

A certain lot or parcel of land, 25 feet wide, situated on Great Diamond Island in the City of Portland, County of Cumberland, and State of Maine, being a portion of Cleeve Street to be discontinued by the City of Portland in 2015, and more particularly bounded and described as follows:

COMMENCING at the intersection of the westerly line of Crescent Avenue with the southeasterly line of Diamond Avenue;

THENCE S 66° 03' 54" W 208.77 feet, more or less, along the southeasterly line of Diamond Avenue, along land now or formerly of Diamond Island Association as described in a deed recorded at the Cumberland County Registry of Deeds in Deed Book 492, Page 259, and along the northerly line of a portion of Cleeve Street to be discontinued by the City of Portland to the **POINT OF BEGINNING**;

THENCE S 76° 06' 56" E 217.32 feet, more or less, along the centerline of said portion of Cleeve Street to be discontinued to a point along the extension of the westerly line of Meadow Avenue;

THENCE S 16° 58' 04" W 25.04 feet, more or less, along the extension of the westerly line of Meadow Avenue to a point at the intersection of the southerly line of Cleeve Street with the westerly line of Meadow Avenue;

THENCE N 76° 06' 56" W 219.65 feet, more or less, along the southerly line of said portion of Cleeve Street to be discontinued to a point in the easterly line of Bay Avenue;

THENCE N 11° 36' 08" W 17.91 feet, more or less, along the easterly line of Bay Avenue and westerly line of said portion of Cleeve Street to be discontinued to a point at the intersection of Bay Avenue with the southeasterly line of Diamond Avenue;

THENCE N 66° 03' 54" E 14.41 feet, more or less, along the southeasterly line of Diamond Avenue and along the northerly line of said portion of Cleeve Street to be discontinued to the **POINT OF BEGINNING**.

Meaning and intending to reserve to the City of Portland, Maine a public easement to be used solely for passive recreational uses and activities which shall be limited to pedestrian and non-motorized bicycle traffic for access to and from the so-called Bay Avenue. No motorized or mechanized, wheeled or tracked recreational vehicles of any kind may be operated or used on the easement area (described above), except that golf carts and wheelchairs or other similar non-recreational vehicles shall be permitted, subject to City regulation and control, in order to provide access over the easement area for the permitted uses and purposes. The City of Portland also reserves the right

to install and maintain at its sole cost and expense signage for and within the public easement reserved.

Bearings are based on the Maine State Coordinates, West Zone, NAD 1983, HARN, Grid North, and field surveys conducted by the City of Portland, Department of Public Services, Engineering Division.

Reference is made to a plan titled "Plan of a part of Diamond Island" dated 1882 on file as plan number 362/6 in the Engineering Archives of said Engineering Division.

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DISCONTINUING A PORTION
OF CLEEVE STREET**

IT IS HEREBY ORDERED, that, pursuant to 23 M.R.S.A. § 3026, having given best practicable notice to all abutting land owners and to the City of Portland Planning Office, a portion of Cleeve Street, as described on Attachment 1, be and hereby is discontinued as a city street or town way, the City reserving a public easement for pedestrian and other limited passage over a part of the discontinued portion of Cleeve Street as described in Attachment 2. The City does not reserve a public utility easement for any public utilities; and

BE IT FURTHER ORDERED, no damages are to be paid in connection with this Order to Discontinue.

ATTACHMENT 1

A certain lot or parcel of land situated on Great Diamond Island in the City of Portland, County of Cumberland, and State of Maine, being a portion of Cleeve Street as accepted by the City of Portland on November 8, 1892, and more particularly bounded and described as follows:

COMMENCING at the intersection of the westerly line of Crescent Avenue with the southeasterly line of Diamond Avenue;

THENCE S 66° 03' 54" W 111.59 feet, more or less, along the southeasterly line of Diamond Avenue to the **POINT OF BEGINNING**;

THENCE S 11° 36' 08" E 38.32 feet, more or less, along land now or formerly of Diamond Island Association as described in a deed recorded at the Cumberland County Registry of Deeds in Deed Book 492, Page 259, to a point along the northerly line of Cleeve Street;

THENCE S 76° 06' 56" E 120.77 feet, more or less, along said land now or formerly of Diamond Island Association and the northerly line of Cleeve Street to a point at the intersection of the northerly line of Cleeve Street with the westerly line of Crescent Avenue";

THENCE S 11° 36' 08" E 9.69 feet, more or less, along the extension of the westerly line of Crescent Avenue and crossing through Cleeve Street to an angle point;

THENCE S 16° 58' 04" W 41.31 feet, more or less, to a point at the intersection of the southerly line of Cleeve Street with the westerly line of Meadow Avenue;

THENCE N 76° 06' 56" W 219.65 feet, more or less, along the southerly line of Cleeve Street to an angle point in the easterly line of Bay Avenue;

THENCE N 11° 36' 08" W 17.91 feet, more or less, along the easterly line of Bay Avenue to a point at the intersection of Bay Avenue with the southeasterly line of Diamond Avenue;

THENCE N 66° 03' 54" E 111.59 feet, more or less, along the southeasterly line of Diamond Avenue to the **POINT OF BEGINNING**.

Bearings are based on the Maine State Coordinates, West Zone, NAD 1983, HARN, Grid North, and field surveys conducted by the City of Portland, Department of Public Services, Engineering Division.

Reference is made to a plan titled "Plan of a part of Diamond Island" dated 1882 on file as plan number 362/6 in the Engineering Archives of said Engineering Division.

Reserving, however, to the City of Portland a public easement for access to and from the so-called Bay Avenue and more particularly described in Attachment 2, attached hereto.

ATTACHMENT 2

A certain lot or parcel of land, 25 feet wide, situated on Great Diamond Island in the City of Portland, County of Cumberland, and State of Maine, being a portion of Cleeve Street to be discontinued by the City of Portland in 2015, and more particularly bounded and described as follows:

COMMENCING at the intersection of the westerly line of Crescent Avenue with the southeasterly line of Diamond Avenue;

THENCE S 66° 03' 54" W 208.77 feet, more or less, along the southeasterly line of Diamond Avenue, along land now or formerly of Diamond Island Association as described in a deed recorded at the Cumberland County Registry of Deeds in Deed Book 492, Page 259, and along the northerly line of a portion of Cleeve Street to be discontinued by the City of Portland to the **POINT OF BEGINNING**;

THENCE S 76° 06' 56" E 217.32 feet, more or less, along the centerline of said portion of Cleeve Street to be discontinued to a point along the extension of the westerly line of Meadow Avenue;

THENCE S 16° 58' 04" W 25.04 feet, more or less, along the extension of the westerly line of Meadow Avenue to a point at the intersection of the southerly line of Cleeve Street with the westerly line of Meadow Avenue;

THENCE N 76° 06' 56" W 219.65 feet, more or less, along the southerly line of said portion of Cleeve Street to be discontinued to a point in the easterly line of Bay Avenue;

THENCE N 11° 36' 08" W 17.91 feet, more or less, along the easterly line of Bay Avenue and westerly line of said portion of Cleeve Street to be discontinued to a point at the intersection of Bay Avenue with the southeasterly line of Diamond Avenue;

THENCE N 66° 03' 54" E 14.41 feet, more or less, along the southeasterly line of Diamond Avenue and along the northerly line of said portion of Cleeve Street to be discontinued to the **POINT OF BEGINNING**.

Meaning and intending to reserve to the City of Portland, Maine a public easement to be used solely for passive recreational uses and activities which shall be limited to pedestrian and non-motorized bicycle traffic for access to and from the so-called Bay Avenue. No motorized or mechanized, wheeled or tracked recreational vehicles of any kind may be operated or used on the easement area (described above), except that golf carts and wheelchairs or other similar non-recreational vehicles shall be permitted, subject to City regulation and control, in order to provide access over the easement area for the permitted uses and purposes. The City of Portland also reserves the right

to install and maintain at its sole cost and expense signage for and within the public easement reserved.

Bearings are based on the Maine State Coordinates, West Zone, NAD 1983, HARN, Grid North, and field surveys conducted by the City of Portland, Department of Public Services, Engineering Division.

Reference is made to a plan titled "Plan of a part of Diamond Island" dated 1882 on file as plan number 362/6 in the Engineering Archives of said Engineering Division.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Alex Jaegerman, Planning Division Director

DATE: March 25, 2015

DISTRIBUTION: Sheila Hill-Christian, Acting City Manager; Michael Brennan, Mayor; Sonia Bean; Danielle West-Chuhta, Corporation Counsel; Jennifer Thompson, Associate Corporation Counsel; Nancy English; Julie Sullivan; Jeff Levine, Planning & Urban Development Director

SUBJECT: Cleeve Street Discontinuance, Great Diamond Island

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading ____ April 6, 2015 ____ **Final Action** ____ April 6, 2015 ____

Can action be taken at a later date: ____ **Yes** ____ **X** **No (If no why not?)** Public notices will appear in the newspaper and be mailed in advance of the public hearing.

PRESENTATION: Stuart O'Brien, Planning Board Chair, and Alex Jaegerman, Planning Division Director, 5 minute oral presentation

I. SUMMARY OF ISSUE (Agenda Description)

The Diamond Island Association (DIA) has petitioned the city for the discontinuance of a portion of Cleeve Street on the west side of Great Diamond Island. The applicant has complemented the petition with a proposal to provide a 25-foot wide easement for pedestrian and other limited access over the southern half of the discontinued portion of Cleeve Street. This petition is made in accordance with state statute (Title 23 M.R.S.A. Section 3026). On March 10, 2014, the Planning Board voted 6-0 (Dundon absent) to recommend the discontinuance to the City Council.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

The city formally accepted the Cleeve Street right-of-way in a street acceptance record of November 1892. It appears that by this point, Cleeve Street's more eastern portions had been constructed as public dirt roads; for unknown reasons the Cleeve Street right-of-way nearest the island's western shore, from Crescent Avenue west, was never developed as a roadway. There is some evidence that, at the time of the street's acceptance, portions of Elwell Hall, a building now owned and maintained by the DIA as a community center and library, encroached into the right-of-way. The right-of-way is currently grassed, and provides a means of access to "Store Beach," a public beach on the island's western shore.

The petition requests the discontinuance of the Cleeve Street right-of-way between the westerly boundary of the Crescent Avenue right-of-way and the easterly boundary of the Bay Avenue right-of-way, a linear distance of approximately 220 feet. In addition, the proposal sweeps in a triangle of land where the Cleeve Street and Diamond Avenue rights-of-way meet to the north. The applicant also proposes a 25-foot wide public access easement for the purposes of pedestrians, bicycles, golf carts, and wheelchairs over the southern half of the existing right-of-way. Thus, under the current proposal, the city would relinquish all public rights, save for limited access, to the right-of-way. The city's maintenance obligations for the right-of-way would also be terminated.

III. INTENDED RESULT

Because, under state provisions for a discontinuance, the right-of-way is split at the centerline and passed to the abutters, the discontinuance would effectively rectify the Elwell Hall encroachment issue, enabling the building to sit entirely within the boundaries of a larger lot. The discontinuance would also provide the DIA with the lot dimensions necessary in order to restore a porch and balcony that were originally part of the Elwell Hall building.

IV. COUNCIL GOAL ADDRESSED

The proposed discontinuance speaks to the Council's goal to "operate the city government in an efficient and effective manner that is responsive to all segments of the community in a manner that is transparent and accountable."

V. FINANCIAL IMPACT

The proposed discontinuance does not result in any financial obligations on the part of the city.

VI. STAFF ANALYSIS

Over the course of the review, the Planning Board spent most time discussing the potential impacts to public access rights to the shore, which emerged as the central concern of neighbors. Ultimately, the Board found that reasonable alternative access could be provided via Diamond Avenue, an existing unbuilt right-of-way lying approximately 100 ft. north of Cleeve Street. Several neighborhood residents raised concerns regarding the maintenance of Diamond Avenue, which is the city's responsibility. In response, the applicant agreed to grant a limited public access easement over the southern half of the Cleeve Street right-of-way to be discontinued. Ultimately, the Board agreed that public access to the shore should not be impacted due to the discontinuance and found cause to support the proposal.

VII. RECOMMENDATION

On March 10, 2015, the Planning Board voted 6-0 (Dundon absent), based on the application for the discontinuance of a portion of Cleeve Street (#2014-216), material provided in the Planning Board report, public testimony, and other information, to recommend passage of the proposed Order Discontinuing a Portion of Cleeve Street on Great Diamond Island to the City Council.

VIII. LIST ATTACHMENTS

1. Order
2. Planning Board Report to City Council

Prepared by: Nell Donaldson, Planner

Date: 3/25/15

CITY COUNCIL REPORT
From
PLANNING BOARD
PORTLAND, MAINE



Petition for Street Discontinuance
Portion of Cleeve Street, Great Diamond Island
Diamond Island Association, Applicant

Submitted to: Portland City Council First Reading: April 6, 2015 Second Reading: None required	Prepared by: Portland Planning Board Date: March 25, 2015
--	--

I. INTRODUCTION

The Diamond Island Association (DIA) has petitioned the city for the discontinuance of a portion of Cleeve Street on the west side of Great Diamond Island. The applicant has complemented the petition with a proposal to provide a 25-foot wide easement for pedestrian and other limited access over the southern half of the discontinued portion of Cleeve Street. This petition is made in accordance with state statute (Title 23 M.R.S.A. Section 3026) and has been accompanied by a City of Portland application for a street discontinuance.

The planning board held a workshop on the discontinuance application on February 24, 2015 and a hearing on March 10, 2015. Over the course of both meetings, discussion centered largely on the importance of maintaining rights of access over the discontinued portion of Cleeve Street. Ultimately, the Board voted 6-0 (Dundon absent) to recommend the discontinuance to the city council, including a provision for the retention of a limited public access easement.

Notices of the council hearing will be sent to 276 property owners within 500 feet, or to all of Great Diamond Island. A legal ad will also be posted in the *Portland Press Herald* on March 30 and March 31, 2015.

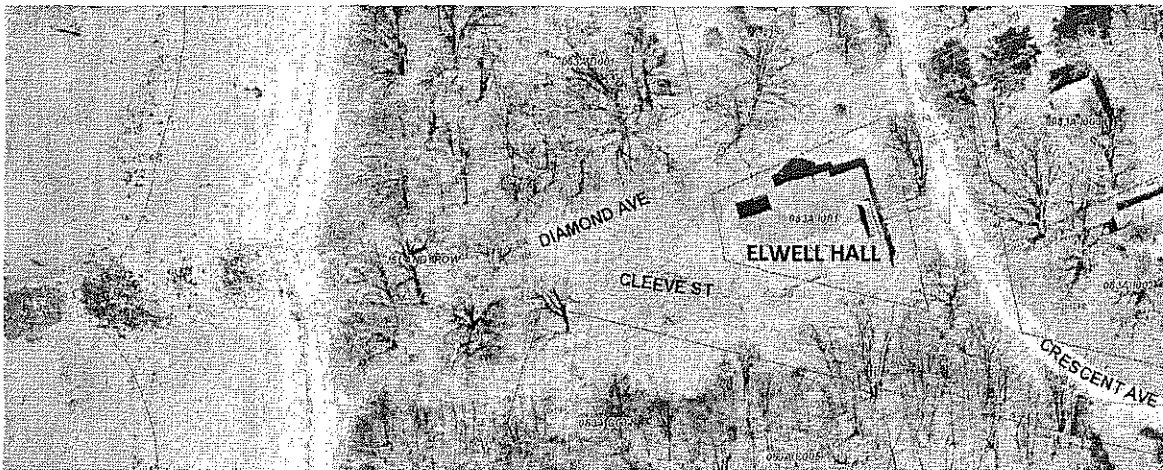
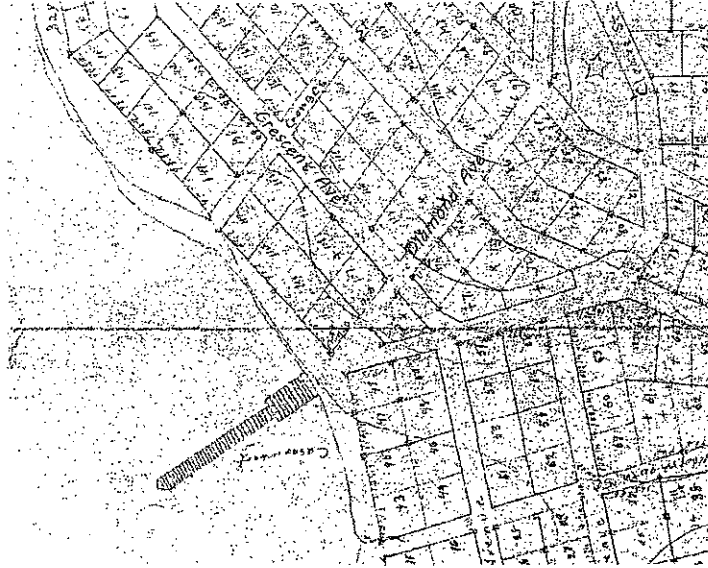
Applicant: Diamond Island Association

Consultants: Perkins Thompson, Attorneys at Law; Northeast Civil Solutions, Surveyor

II. REQUIRED REVIEWS

Under Maine state statute, a municipality may terminate "whole or in part any interests held by it for highway purposes" after giving "best practicable notice" to abutting property owners (*MRSA Title 23, §3026; City Code of Ordinances 14-30(n)*). Per state law, upon discontinuance, the street right-of-way "shall pass to the abutting property owners to the center of the way," and "unless otherwise stated in the order, a public easement shall...be retained" by the municipality.

Per the city's ordinance, the planning board has jurisdiction "[t]o hear, review and offer its recommendations to the city council on petitions for street vacations and discontinuances" (*Section 14-30(n)*). The city council is ultimately responsible for issuing orders of discontinuance.



Figures 1, 2, and 3 (from top left): Western shore of Great Diamond Island, including Elwell Hall and the portion of the Cleave Street right-of-way proposed for discontinuance; 1886 Great Diamond Island plat, by the Diamond Island Association, showing the 'Cleave' Street right-of-way (note that the Elwell Hall lot (shaded red) is marked with a cross, indicating that a building existed there); Unconstructed portion of the Cleave Street right-of-way today, showing encroachment of the Elwell Hall building (note that parcel boundaries are not exact)

III. BACKGROUND

The Cleave Street right-of-way, along with much of Great Diamond Island's western half, was originally platted in the early 1880s by the Diamond Island Association (DIA). An 1886 plat shows the "Cleave Street" right-of-way meeting the Diamond Avenue right-of-way at a pier on the island's western shore. On the northern side of this intersection, the right-of-way is bounded by a built lot, housing what is today called Elwell Hall (Figure 2).

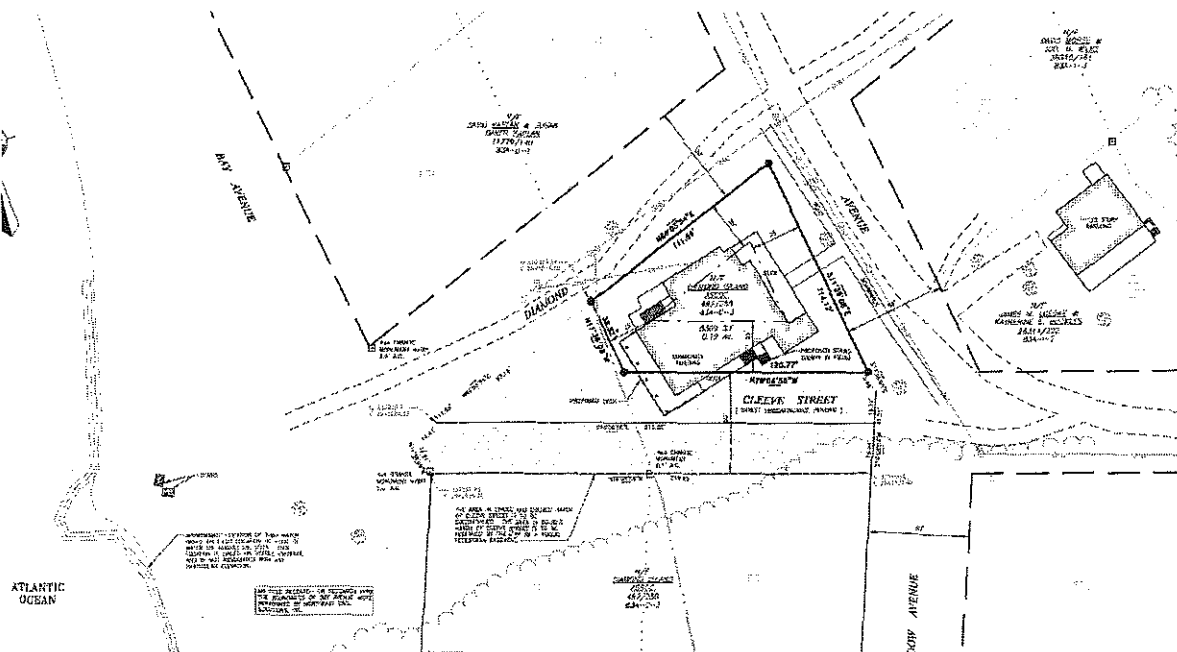
The city formally accepted the Cleave Street right-of-way in a street acceptance record of November 1892, and with this action codified the public's right to use the way (Attachment D, see plan reference in Attachment 11). It appears that by this point, Cleave Street's more eastern portions had actually been constructed as public dirt roads; for unknown reasons the Cleave Street right-of-way nearest the shore, from Crescent Avenue west, was never developed as a roadway. From the time of the 1886 plat, it seems that portions of the Elwell Hall building have encroached into the Cleave Street right-of-way (Figure 3).

Today, the Diamond Island Association owns the properties on both the north and the south sides of the unbuilt portion of Cleeve Street. These holdings include Elwell Hall, which the DIA maintains as a community center and library, and the vacant lots opposite. There is some evidence that the Elwell Hall septic system lies entirely within the Cleeve Street right-of-way. There is no evidence of public utilities. The right-of-way is currently grassed. At its western end, it provides access to a beach, known local as "Store Beach."

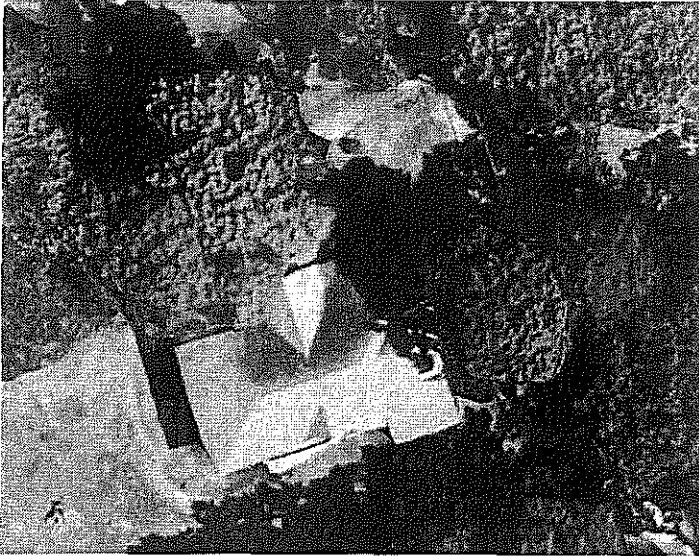


IV. PROPOSAL

The petition requests the discontinuance of the Cleeve Street right-of-way between the westerly boundary of the Crescent Avenue right-of-way and the easterly boundary of the Bay Avenue right-of-way, a linear distance of approximately 220 feet. In addition, the proposal sweeps in a triangle of land where the Cleeve Street and Diamond Avenue rights-of-way meet to the north (Figure 5). The application also includes a 25-foot wide public access easement for the purposes of pedestrians, bicycles, golf carts, and wheelchairs over the southern half of the existing right-of-way. Thus, under the current proposal, the city would relinquish all public rights, save for limited access, to the right-of-way. The city's maintenance obligations for the right-of-way would also be terminated.



Figures 4 and 5 (from top): Cleeve Street right-of-way today; Discontinuance proposal



Because, under state provisions for a discontinuance, the right-of-way is split at the centerline and passed to the abutters, the discontinuance would effectively rectify the Elwell Hall encroachment issue, enabling the building to sit entirely within the boundaries of a larger lot. The discontinuance would likewise obviate any property rights issues with respect to the septic system. Ultimately, the DIA envisions restoring a porch and balcony that were originally part of the Elwell Hall building; the discontinuance would provide the lot dimensions necessary to do so under existing zoning.



Figures 6 and 7 (from top): Worn travel routes along the Diamond Avenue right-of-way and at rear of Elwell Hall; Diamond Avenue right of way today

right-of-way currently provides access to an existing beach, known locally as "Store Beach," on Great Diamond Island's western shore. The public may also access this beach via the Diamond Avenue right-of-way, which lies approximately 100 feet to the north on the opposite side of Elwell Hall. To clarify, neither of these rights-of-way is currently built as a street of any sort at the present time. The Cleeve Street right-of-way currently exists as a grassed lawn area, and the Diamond Avenue right-of-way appears

VI. PLANNING BOARD AND STAFF REVIEW

Rights-of-way clearly serve the city in various capacities, in terms of providing property for public utilities and travel ways, among others. The planning board and staff reviewed the petition for discontinuance in this light and found the following:

Utilities

The applicant has obtained letters from utilities, including the Portland Water District (PWD), Central Maine Power (CMP), and Fairpoint Communications, verifying that they have no interests in the Cleeve Street right-of-way in this area (*Attachments K, L, M*).

David Margolis-Pineo, of the city's Department of Public Services, has indicated his department's support for the proposed discontinuance. He has stated that there is no reason to retain the right-of-way for the city's utility purposes (*Attachment 18*).

Public Access

As noted above, the Cleeve Street

a bit more worn but fairly the same. There is some evidence of rutting in both instances (*Figures 4, 6, and 7*).

In their original application, the applicant stated that the proposed discontinuance “will not impair public access to the water....there is no path over Cleeve Street – in fact, tables are there. Access to the water traditionally has been over the portion of the accepted Diamond Avenue that is along the DIA/Elwell Hall lot, and this access will continue as it has always occurred” (*Attachment A*). As noted above, a worn travel route is faintly visible over the Diamond Avenue right-of-way in aerial photographs (*Figure 6*), and can be seen in ground shots as well (*Figure 7*).

However, at the planning board workshop on this matter, there were several public comments with respect to the suitability of the Diamond Avenue access, as residents argued that the condition of this way makes it impassable for pedestrians and golf carts. It should be noted that, currently, maintenance responsibilities for both Cleeve Street and Diamond Avenue, as accepted city “streets,” technically fall to the city. In practice, the Department of Public Services has confirmed that there is an island crew who currently cares for the island’s streets and ways. This crew would provide necessary maintenance for rights-of-way, even when these rights-of-way are unconstructed, upon request.

At the workshop, the board also raised questions regarding ownership and rights of access to Store Beach. Both the DIA’s 1886 ‘Plan of Property Belonging to Diamond Island Association’ (*Figure 2*) and the 1892 ‘Plan of a part of Diamond Island’ (*Figure 8 and Attachment 10*) appear to show that Store Beach falls within the Bay Avenue right-of-way. In both plans, this right-of-way appears to extend to the high water line on the island’s western shore. The 1892 plan is perhaps most relevant to the question of beach rights, as it established the foundation on which the city accepted Great Diamond Island’s ‘streets’ (and

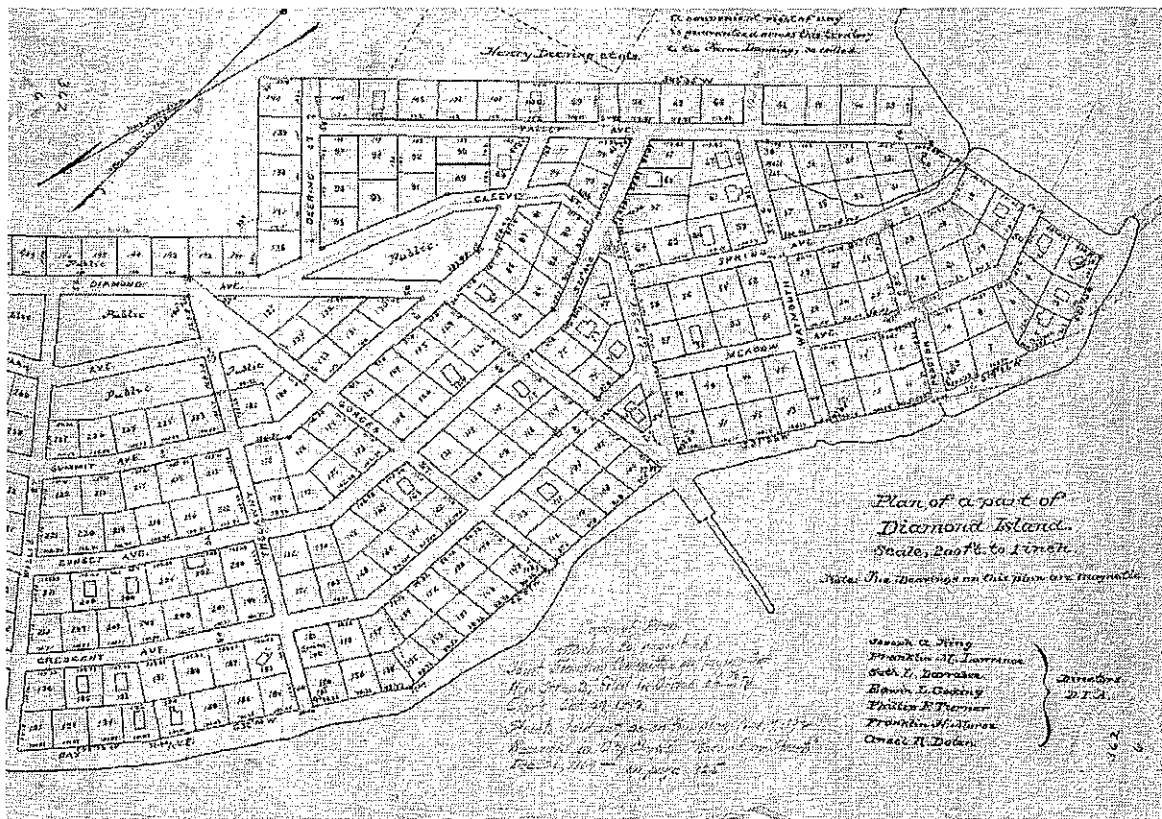


Figure 8: Plan of a part of Diamond Island, 1892, which provides the reference for the city’s street acceptance record

thus gained the rights for the public to use said 'streets') in November of 1892 (*Attachment D*). Jennifer Thompson, of the city's Corporation Counsel, has provided a memo related to the question of the island rights-of-way and access rights (*Attachment 20*). It should be noted that, in practice, Store Beach functions as a public beach.

Proposed Easement

Given that the city could be requested to provide maintenance to improve existing conditions in the Diamond Avenue right-of-way, which lies approximately 100 feet north of the Cleeve Street right-of-way, the planning board considered that it could safely serve as the primary public access to Store Beach. However, as there have been concerns from neighbors, and as Cleeve Street follows a desire line for residents coming from the south, the applicant has offered to provide a limited public access easement over the southern half of the Cleeve Street right-of-way (restricting the easement to the southern half in order to avoid the encroaching Elwell Hall building).

As drafted, and in response to neighbors' concerns, the public easement language states that it is "to be used for passive recreational uses and activities which shall be limited to pedestrian and non-motorized bicycle traffic for access to and from the so-called Bay Avenue," and continues, "[n]o motorized or mechanized, wheeled or tracked recreational vehicles of any kind may be operated or used on the easement area, except that golf carts and wheelchairs or similar non-recreational vehicles shall be permitted" (*Attachment 21*).

Based upon the comments of Corporation Counsel and both Bill Clark and David Margolis-Pineo of the city's Department of Public Services, the planning board reviewed the easement and supported the easement language, with the minor request that the easement be amended to allow the city to construct signs within the right-of-way. A revised easement, including this language and reviewed by Corporation Counsel, is presented herein (*Attachment 21*). A plan showing the area of proposed discontinuance, including the easement area, has also been provided by the applicant for reference (*Plan 1*). The plan has been reviewed and confirmed to accurately depict the proposed easement by Mr. Clark.

V. PUBLIC COMMENT

State statute requires that, upon a petition for a street discontinuance, "municipal officers" give "best practicable notice" to all abutting property owners (*MRSA Title 23, §3026 (1)*). In this case, the only abutting property owner is the Diamond Island Association itself. City staff also mailed notice to all property owners within 500 feet; this mailing encompassed all of Great Diamond Island.

The planning board has received many written comments on the proposed discontinuance (*Attachments 1-16*). Most express support for the discontinuance. Others voice concerns about any infringement on public pedestrian or golf cart access to the beach, and argue that Diamond Avenue, in its current condition, does not serve as a viable alternative route to the shore. The immediate neighbors and one other island resident have expressed general opposition to the proposed discontinuance, citing concerns about precedent. The planning board considered this input in their review of the application, as noted above.

III. BOARD DELIBERATION AND RECOMMENDATION

Based on the application for the discontinuance of a portion of Cleeve Street (#2014-216), material provided in the planning board report, public testimony, and other information, the planning board voted 6-0 (Dundon absent) to recommend passage of the proposed Order Discontinuing a Portion of Cleeve Street on Great Diamond Island to the City Council.

IX. ATTACHMENTS

PLANNING BOARD REPORT ATTACHMENTS

1. Public comment (email from Jaime Parker, Portland Trails, 11/24/14)
2. Public comment (email from Anne Weber, 1/5/15)

3. Public comment (email from Susan Baker-Kaplan, 2/20/15)
4. Public comment (email from David Kaplan, 2/23/15)
5. Public comment (email from Mike Burton, 2/23/15)
6. Public comment (email from Ann Weber, 2/23/15)
7. Public comment (email from Nancy Burton, 2/24/15)
8. Public comment (email from Regina Mornie, 3/5/15)
9. Public comment (email from Phil Laughlin, 3/5/15)
10. Public comment (email from John Harris, 3/7/15)
11. Public comment (email from Michael Burton, 3/8/15)
12. Public comment (email from Robert McAndrew, 3/8/15)
13. Public comment (email from Nancy Burton, 3/8/15)
14. Public comment (email from Jeff Putnam, 3/9/15)
15. Public comment (email from Lyn Sala, 3/9/15)
16. Public comment (letter from Robert Laughlin, 3/10/15)
17. Zoning Administrator review (memo on easement and setbacks from Ann Machado, 12/22/14)
18. Department of Public Services review (memo from David Margolis-Pineo, 1/29/15)
19. 1892 'Plan of a part of Diamond Island'
20. Corporation Counsel review (memo from Jennifer Thompson, 3/4/15)
21. Order Discontinuing a Portion of Cleeve Street (including easement)

APPLICANT'S SUBMITTALS

- A. Cover Letter (from Jim Katsiaficas, dated 10/31/14)
- B. Discontinuance application
- C. Portion of 1886 Great Diamond Island Plat
- D. Street Acceptance Record
- E. Elwell Hall Deed
- F. Abutter List
- G. Waiver and Indemnification
- H. Aerial Photograph
- I. Right-of-Way Photograph
- J. Right-of-Way Photograph
- K. PWD Letter
- L. Letter from Fairpoint Communications
- M. Letter from Central Maine Power
- N. Cover Letter (from Jim Katsiaficas, dated 2/12/15)

C. PLANS

- Plan 1 Boundary Plan (3/3/15)

From: Jaime Parker <jaime@trails.org>
To: Helen Donaldson <hcd@portlandmaine.gov>
Date: 11/24/2014 10:55 AM
Subject: Cleeves Street on Great Diamond

Hi Nell,

I received the following notice about Cleeves St. on Great Diamond. Admittedly I am not familiar with the particular location, but is there any reason to think that this would limit public access to this area? I wouldn't want to deny them the ability to restore the porch or make improvements, but also recognize these 'grass streets' are part of what makes the islands so special. The ability of people to walk through is important in keeping the islands accessible to the public, and avoiding exclusivity. Discontinuing streets should not be done lightly, as we have lost many important connections by abandoning public rights. If the street were discontinued, might a public access easement on a narrower corridor be appropriate?

Thank you,

Jaime Parker

Cleeves Street - Great Diamond Island

To residents and property owners: The Diamond Island Association is requesting the discontinuance of a portion of Cleeves Street that is located between Diamond and Crescent Avenues on Great Diamond Island. The Association is seeking the discontinuance of Cleeves Street that abuts Elwell Hall along with the adjoining triangle of land in order to restore the porch and balcony of the Hall and meet applicable zoning requirements.

In accordance with the Portland Land Use Ordinance, notices of receipt of a Street Discontinuance application must be sent to property owners within 500 ft. of the subdivision.

You will be notified of future Planning Board meetings by receiving notices from the Planning Division prior to any workshops or public hearings. Plans are available for viewing in the Portland Planning Division, 4th Floor, City Hall. If you have questions or would like to submit comments, please call Nell Donaldson, Planner at (207) 874-8723 or at hcd@portlandmaine.gov

--
Jaime Parker
Trails Manager
Portland Trails
jaime@trails.org
329.6180

Non Sibi, Sed Omnibus

From: <aweber123@myfairpoint.net>
To: <hcd@portlandmaine.gov>
Date: 1/5/2015 3:51 PM
Subject: Cleeve St. closing on GDI

Dear Members of the Planning Board:

My name is Anne Weber, a year round resident and member of the Diamond Island Association. I am writing to tell you I am strongly opposed to the closing of Cleeve St on Great Diamond Island for the following reasons:

- 1.) I believe it is not in the best interest of the Island to close ANY public roads regardless of the reasons.
- 2.) The Planning Board has repeatedly denied all requests to close other public roads on the Island in the past
- 3.) Such closing would encourage other applications for further closures, ie. Trelawny St and Gorges St.
- 4.) Maps show there are seven streets that lead to the beach. However, Cleeve St. is one of only three navigable public access roads to the beach. Proctor, Waymouth, Trelawny and Gorges have not been maintained in the 20 years I have lived here and are overgrown at best while Diamond Ave is very deeply rutted and Willis St has a 22ft. stairway down to the water. Cleeve St is the ONLY island street which is safely driveable to the water.
- 5.) Despite the fact the Diamond Island Association owns lot 49, closing Cleeve St would mean lot 49 would have no public access. Bay Ave as indicated on maps appears to be a road but has eroded away so much it is now all beach. Without Cleeve St, the value of lot 49 would decrease considerable for any future sale.

Please consider my objections as you make your decision on the closing of Cleeve St.

Sincerely,
Anne E. Weber
73 Diamond Ave.
Great Diamond Island, 04109

From: Susan Baker-Kaplan <suegdi@earthlink.net>
To: <hcd@portlandmaine.gov>
Date: 2/20/2015 8:17 AM
Subject: Proposed Discontinuance of Cleeve Street
Attachments: Diamond Avenue Approach to Public Beach; Cleeve Street upper approaching hall and lower Cleeve St; Back of Elwell Hall view of Diamond Ave; Cleeve Street gentle slope to beach; Cleeve Street extension to beach; Part.006

To the Portland Planning Board, Planning Division and Neil Donaldson:

My name is Susan Baker-Kaplan. I am a Portland property owner, tax payer, voter and until recently a year round resident of Great Diamond Island.

I am also a member of the Great Diamond Island Association and have been for 20 years.

The Great Diamond Island Association is a private, primarily summer social club on Great Diamond Island that is petitioning the city of Portland to discontinue a public city street. Cleeve Street abuts the site of the association's meeting hall and summer gathering place, Elwell Hall.

I am greatly opposed to the proposal to discontinue Cleeve Street for several reasons.

Cleeve Street is an active public right of way to the largest and most popular sandy beach on Great Diamond Island. The beach is known as "Store Beach". It is located at the bottom of long hill where Bay Avenue, Diamond Avenue and Cleeve St intersect.

Cleeve Street is a gentle and gradual street leading to this beach. It has been an active street for years....at least during the 20 years I have lived on Great Diamond Island.

Bicycles, golf carts, baby carriages and hand carts as well as pedestrians approaching from the public dock side of the island all use this route. The alternative approach to the beach is Diamond Avenue.

The Diamond Avenue approach is steeper and more treacherous than Cleeve Street.

Large rocks and tree roots cut into Diamond Ave providing additional hazards and obstacles to any vehicle descending this path.

The two approaches are used about equally.

I know this from personal observation as I live in the house next door and have watched beach goers for years descending the hill via both routes.

Since I have lived in the house next door for 20 years I have witnessed several accidents and falls occurring on Diamond Avenue.

I personally have bandaged knees and called the doctor...my husband...to attend to cuts and scrapes incurred while descending the Diamond Ave Hill.

The Diamond Island Association is suggesting that Cleeve Street is not used. That is simply NOT true.

Their attorney states that there is a table installed in the middle of the street.

This is a ping pong table that belongs to the Association and was recently positioned there by one individual.

It can easily be removed and probably should be removed.

I am attaching photos of Cleeve St and Diamond Ave.

I regret that the city of Portland has necessarily become involved in another time consuming, expensive and divisive issue on Great Diamond Island.

The closing of a public city street for the benefit of a private summer social club also would set a precedent for the closure of other public ways on Great Diamond Island.

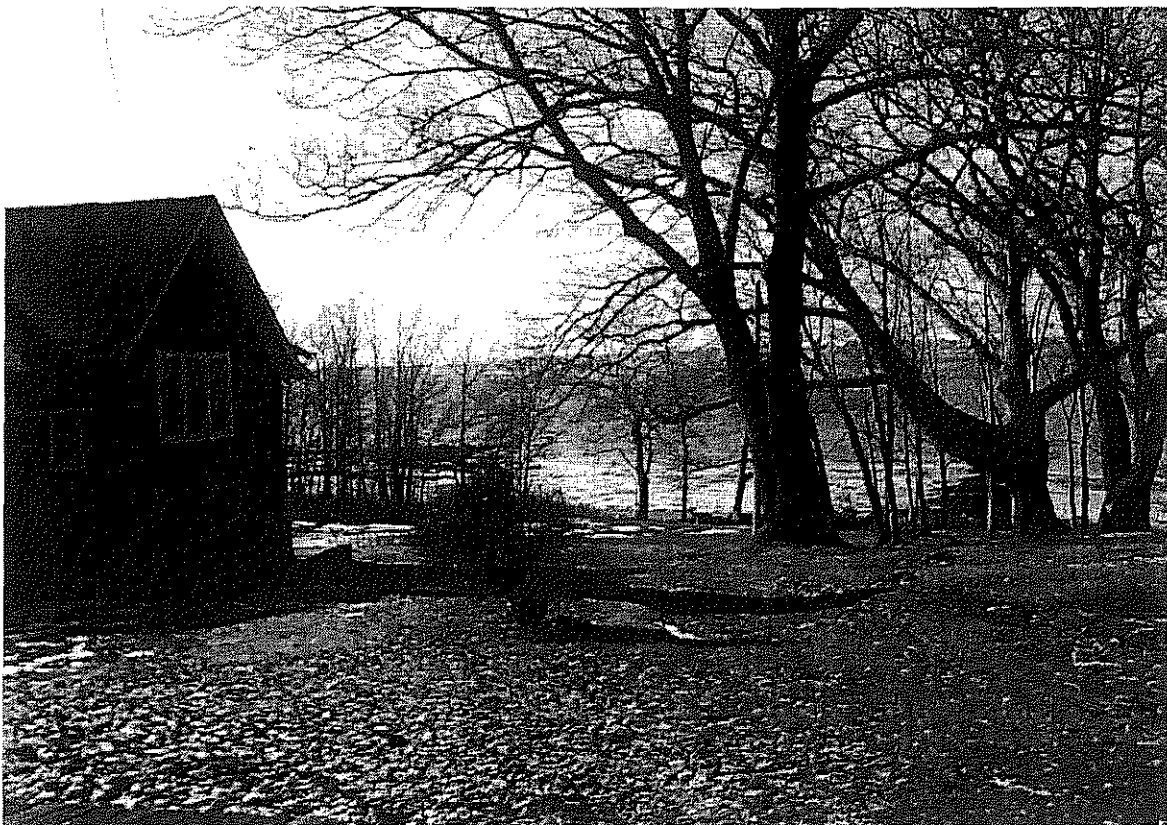
I strongly believe that the public street should not be discontinued.

Thank you for your time and attention.

Most Sincerely,
Susan Baker-Kaplan
18 Crescent Ave
Great Diamond Island
PO Box 7308
Portland, Maine 04112



Back of Elwell Hall view of Diamond Ave



Diamond Avenue approach to public beach



Cleeve Street extension to beach



Cleeve Street gentle slope to beach



Cleeve Street upper approaching hall and lower Cleeve Street



Back of Elwell Hall view of Diamond Ave



Diamond Avenue approach to public beach



Cleeve Street extension to beach



Cleeve Street gentle slope to beach



Cleeve Street upper approaching hall and lower Cleeve Street

From: David Kaplan <davegdi@gmail.com>
To: <hcd@portlandmaine.gov>
Date: 2/23/2015 11:42 AM
Subject: Cleve Street GDI

My name is David Kaplan. I am a Portland property owner, tax payer, voter and until recently a year round resident of Great Diamond Island. I am also a member of the Great Diamond Island Association and have been for 20 years.

I am an emergency room physician. When on the island I am a member of the volunteer fire fighters and have acted as safety officer for team. I and am often called upon to intervene on behalf of the island population when a mishap, trivial or otherwise occurs.

I am greatly opposed to the proposal to discontinue Cleeve Street for several reasons, many of which have been brought to your attention by other.

Cleeve Street is an active public right of way to the largest and most popular sandy beach on Great Diamond Island. Cleeve Street is a gentlest and most gradual street leading to this beach. It is used daily particularly by those who want to avoid the rocky and irregular pitfalls waiting on the near adjacent Diamond Ave.

I, personally, have treated, at least 4 twisted ankles occurring as a direct result of the hazards mentioned above. I am in no doubt that there has not been a broken hip amongst my repertoire because of the safer alternative route

I strongly believe that the public street should not be discontinued.

Thank you for your time and attention.

David Kaplan, MD. FRCS CTH

From: "Burton, Mike" <Mike.Burton@regence.com>
To: "hcd@portlandmaine.gov" <hcd@portlandmaine.gov>
CC: "jkatsiaficas@perkinsthompson.com" <jkatsiaficas@perkinsthompson.com>
Date: 2/23/2015 12:37 PM
Subject: Cleeve Street Discontinuance

Dear Ms. Donaldson,

I own summer home on Great Diamond Island and I'm a Board Member of the DIA. I'm writing to you in support of the discontinuance of Cleeve Street on Great Diamond. This all started when DIA voted to restore the balcony on Elwell Hall and the vote was 60 - 1 in favor of this project. In fact, we raised over \$25,000 privately to finance the project as many of our members gave generous donations. The issue with the building permit came about when it was realized a corner of Elwell Hall sits on Cleeve Street. DIA (Diamond Island Association) spent \$4,500 to have Northeast Consulting do a survey so we could get the true boundaries. I would assume the City of Portland would like to discontinue Cleeve Street as a corner of a building sits in the actual road currently.

I know there has been one or two in opposition but Cleeve Street is not the path that people use to get to the water, they use Diamond Avenue and that is pretty clear in the pictures submitted. Currently there is an outdoor ping pong table and lawn chairs in the middle of Cleeve Street. In addition, the DIA has agreed to a pedestrian right of way over Cleeve Street so I hope that would satisfy the opposing parties. Given that DIA owns the abutting property and there would be no restriction of public access I'm hopeful the Planning Board will support this discontinuance request.

Sincerely,
Michael Burton
118 Valley Avenue
Great Diamond Island

IMPORTANT NOTICE: This communication, including any attachment, contains information that may be confidential or privileged, and is intended solely for the entity or individual to whom it is addressed. If you are not the intended recipient, you should delete this message and are hereby notified that any disclosure, copying, or distribution of this message is strictly prohibited. Nothing in this email, including any attachment, is intended to be a legally binding signature.

From: <aweber123@myfairpoint.net>
To: <hcd@portlandmaine.gov>
Date: 2/23/2015 5:27 PM
Subject: Cleeve St closing

Dear Neil: Please include the following with my Jan 5th email. Thank you so much.

Dear Planning Board Members:

Due to weather constraints, I am unable to get home to Portland for the Cleeve St Workshop

On Jan 5, 2015 I wrote to you concerning my objections to the closing of Cleeve St on Great Diamond Island. Just yesterday I learned the DIA has very recently offered to include a pedestrian right of way to their application. While at first glance this might seem like a fair compromise, however, I find it complicates the issue and am still opposed. A pedestrian right of way does not allow for vehicles and would shift golf cart traffic as well as the occasional pick up truck to Diamond Ave. which is unnavigatable for such usage. It is also unenforceable as we have no police presence on the island. Some type of barriers would need to be installed on Cleeve St. or DIA property at both ends at considerable cost. As I mentioned in my earlier email, Diamond Ave. is not maintained by the City and is deeply rutted. A fully open Cleeve St is the safest public route to the beach!

While I am a member of the Diamond Island Association I have never been in favor of the balcony project but offer the following as a win-win solution:

Perhaps the DIA could offer to trade land to the south of Cleeve St (which is actually the current traveled way) to the City in exchange for the City land Elwell Hall sits on, thereby keeping Cleeve St open to the public and allowing for the necessary variances required by the City for the building permit. Willis Street was such a swap.

Thank you

From: Nancy Burton <nnburtongdi@gmail.com>
To: "HCD@portlandmaine.gov" <HCD@portlandmaine.gov>
Date: 2/24/2015 12:27 PM
Subject: Fwd: Cleeve Street Discontinuance Application

> Subject: Cleeve Street Discontinuance Application

>

> Dear Planning Board,

>

> I'm writing in support of the closing of Cleeve Street on GDL. I'm a Mother of 2 daughters and we probably use the beach via Diamond Ave as much as anyone if not more. At least 3 to 4 times a week I take my golf cart down Diamond Ave to access the beach as this is the road that everyone has used for at least the last 25 years that I have been on the island. The closing of Cleeve in no way will restrict the access to the public. Please review the pictures as you can see Cleeve Street looks more like a park than an actual street.

>

> Thank you,

> Nancy Burton

From: Regina <remomnie@hotmail.com>
To: "hcd@portlandmaine.gov" <hcd@portlandmaine.gov>
Date: 3/5/2015 3:22 PM
Subject: Great Diamond Island

As a property owner on the island and a member of the Diamond Island Association. I want to indicate to you that I am in support of the closing of Cleeve St. I live out of state and am unable to attend the meeting on March 10.
Thank you for your attention.
Regina Momnie

Sent from my iPad

From: Phil Laughlin <phil.laughlin@pmac.com>
To: "hcd@portlandmaine.gov" <hcd@portlandmaine.gov>
Date: 3/5/2015 4:28 PM
Subject: Great Diamond

I am in favor of the new balcony

F Philip Laughlin
Senior Loan Officer | NMLS# 8420
2320 Congress Street Suite C Portland, ME 04102
T 207-321-5326 | M 207-838-8101 | F 207-321-5370

*Ranked in the top 1% of mortgage originators in America in 2013

[Phil Laughlin 11-08]

[PMAC High Res Logo] <<http://www.pmac.com/>>

PMAC Lending Services, Inc. | NMLS #167441 | Equal Housing Lender. This message is intended only for the use of the individual or entity to which it is addressed. This message may contain legally privileged, nonpublic personal information, and/or confidential information. Any unauthorized use, disclosure, reproduction, or distribution is prohibited. If you are not the intended recipient, please notify me immediately and delete/destroy the original and any copies

From: John Harris <jjharrisme@gmail.com>
To: <hcd@portlandmaine.gov>
Date: 3/7/2015 6:07 PM
Subject: Cleeve Street Discontinuance--Great Diamond Island

Ms. Nell Donaldson,

*I Support the balcony project on Elwell Hall and am unable to make the planning meeting on Tuesday, March 10th at 7:00pm at Portland City Hall. *

My family is a DIA member and we have been present on the island for over 70 years. We see no issue with the discontinuance of Cleeve street and are in favor of allowing this to occur so that the DIA may complete the balcony project. We enjoy being a member of DIA and the historic Elwell Hall is a great meeting place for all islanders, and visitors, and allowing the balcony project to proceed will make Elwell Hall even more enjoyable to all.

If you would like to speak to me, my phone number is 207-415-3299. I would be glad to speak with you and answer any questions.

Thanks for your consideration in this matter!

John J Harris

*Island Address: 1 Bay Avenue---**Great Diamond Island*

Home Address: 40 Anderson Rd. Windham, ME 04062

207-415-3299

From: Nancy Burton <nnburtongdi@gmail.com>
To: "HCD@portlandmaine.gov" <HCD@portlandmaine.gov>
Date: 3/8/2015 4:58 PM
Subject: Cleeve Street

Dear Ms. Donaldson,

My name is Michael Burton and I own a cottage on Great Diamond Island and I'm the current Vice President of the Diamond Island Association. I'm writing in support of closing Cleeve Street so DIA can restore the balcony to Elwell Hall. Cleeve Street is currently a grassy slope that very few people use to access the beach. The much more common way to access the beach is using Diamond Avenue which is only 50 feet to the North of Elwell Hall. Without this street closure the DIA can't obtain the required building permit as the Hall doesn't have the necessary set backs.

In addition, the DIA is willing to grant the City of Portland an easement for pedestrian, bicycles and golf carts. It is my hope the Planning Board will support this request.

Best regards,
Michael Burton
128 Valley Avenue
Great Diamond Island

From: Robert McAndrew <rmac0104@sbcglobal.net>
To: "hcd@portlandmaine.gov" <hcd@portlandmaine.gov>
Date: 3/8/2015 5:00 PM
Subject: closing of cleeve street

To whom it may concern,

My name is Robert McAndrew and I own a house at 36 Meadow Ave, Great Diamond Island. I have been a summer resident on the island for 48 years. I am writing to express my support for the closing of Cleeve Street adjacent to the Diamond Island Association Hall for the purpose of reconstructing the deck that was present many years ago.
Thank You.

Robert McAndrew
36 Meadow Ave.
Great Diamond Island
Portland, ME

From: Nancy Burton <nnburtongdi@gmail.com>
To: "HCD@portlandmaine.gov" <HCD@portlandmaine.gov>
Date: 3/8/2015 5:09 PM
Subject: Cleeve Street Closure

Dear Ms. Donaldson,

My name is Nancy Burton and I own a cottage on Great Diamond Island. I'm writing to you to support the closing of Cleeve Street so the DIA can restore the historic balcony on the 125 year old Elwell Hall. I have 2 daughters and we often use the beach in front of the Hall and I can tell you from experience I use Diamond Avenue with my golf cart or we walk down. Very few people use Cleeve Street as it's more like a grassy park then a "road". In fact most island residents probably wouldn't even know that Cleeve Street exists.

I hope the Planning Board will support this request.

Sincerely,
Nancy Burton
128 Valley Avenue
Great Diamond Avenue

March 9, 2015

Dear Nell Donaldson:

Good Afternoon. I am a yearly 7 month resident of Great Diamond Island and have been on the island as a visitor, renter and finally a resident of the same family cottage for a total of 39 years. I was one of the individuals who attended the work shop on the matter of the discontinuation of Cleeve Street on Great Diamond Island, and who spoke in favor of the discontinuance. I will try to summarize the points that I made at that time. Diamond Avenue currently is the primary means of access to the beach. Most of the individuals, who use the beach, live on the north end of the island. Their natural approach brings them to Diamond Avenue first and they use it as the road to access the beach. Diamond Avenue, while in need of some maintenance, is neither treacherous, nor impassible by either, foot or golf cart traffic. As I stated at the workshop if the road was so treacherous, why hadn't anyone complained to the Diamond Island Association or to the City of Portland about the condition of the road. The portrayal of Cleeve Street as a gentle grade towards the beach is erroneous as at the beginning of Cleeve Street there is a fairly steep drop off from the main road, (Crescent Avenue), that runs in front of Elwell Hall. As Cleeve Street proceeds past the hall there is another drop-off that while negotiable, is not gradual. I also feel that since the hall is already encroaching on Cleeve Street, it makes simple sense for the discontinuance of the street to happen.

Thank you for your time.

Jeffrey S. Putnam
37 Diamond Ave
Great Diamond Avenue
Portland, Maine 04109

From: Susan Sala <psalal@cox.net>
To: "hcd@portlandmaine.gov" <hcd@portlandmaine.gov>
Date: 3/9/2015 9:33 AM
Subject: Cleeve Street Discontinuance

We support the discontinuance of Cleeve Street on Great Diamond Island. We have vacationed on GDI since 1979 and have owned a home there since 1992. We had no idea that we were on Cleeve Street when we walked around Elwell Hall. A majority of Diamond Island Association members approved the construction of the balcony and contributed over \$25,000 to the cost of that construction. The balcony will enhance our enjoyment of Elwell Hall. We urge you to vote for the discontinuance of Cleeve Street so that the construction of the balcony can go forward.

Thank you,
Susan and Peter Sala
124 Sunset Avenue
Great Diamond Island
Sent from my iPad

103 Valley Avenue
Great Diamond Island
Portland, Maine
March 9, 2015

Dear Ms. Donaldson,

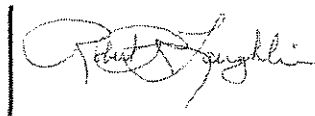
My name is Robert Laughlin and I am writing to support the proposed discontinuance of a portion of Cleeve Street to allow the construction of the balcony project at Elwell Hall on Great Diamond Island. My family have been summer residents on the island since 1900, one hundred and fifteen years, and I have been spending summers there for nearly seventy years (less four days!). I remember the original balcony and, in fact, one of my first summer jobs was to pull nails and sort debris after the balcony had been demolished. Replacing the balcony is important architecturally because the current Elwell Hall was designed by John Calvin Stevens to replace the Diamond Island Association's original hall which burned in 1911. Rebuilding the balcony will be a tribute to Stevens and will restore an original, and long missing, feature to a truly unique and historic building.

Those of you on the Council who have dealt with Great Diamond Island issues on other occasions will have observed that an almost unanimous vote of DIA members supported this reconstruction and that many members donated money for this project. You will understand that such unanimity is in itself noteworthy!

Ironically, the discontinuance of Cleeve Street should really be a non-issue. Both Cleeve Street and Diamond Avenue originally provided access to Casco Wharf, the 19th Century landing site for the Diamond Island Association, and at that time the wharf and all island streets were the property of the DIA. Casco Wharf was discontinued in the 1890s, and since then there has been negligible traffic on both Cleeve Street and Diamond Avenue. Today the occasional golf cart navigates Diamond Avenue to access the beach, and the portion of Cleeve Street under consideration is essentially not passable. Had the balcony been properly maintained, it would still be standing in the "street," and we wouldn't be having this discussion at all.

I urge you to consider the changed circumstances, the common support, the architectural significance of this project, and vote in favor of the issue and to once again celebrate the genius of John Calvin Stevens.

Thank you,

A handwritten signature in cursive script, appearing to read "Robert R. Laughlin". The signature is written in dark ink and is positioned to the right of a vertical line.

Robert R. Laughlin
Resident of Great Diamond Island
Member of the DIA's History Committee
grtdia@aol.com

From: Ann Machado
To: Helen Donaldson; jkatsiaficas@perkinsthompson.com
CC: Jennifer Thompson
Date: 12/22/2014 10:14 AM
Subject: RE: Cleeve Street discontinuance

Jim -

I think that Nell is on vacation this week so I thought that I would respond to your email.

If Diamond Island Association has to grant a public access easement to the City, the setbacks and lot coverage for the proposed porch and balcony will still be met because Diamond Island Association will own the property. An easement does not impact the proposed property lines or lot area. I checked with Jennifer Thompson and she concurs.

Ann

Ann Machado
Acting Zoning Administrator
Planning & Urban Development
Portland City Hall
(207) 874-8709

From: David Margolis-Pineo
To: Helen Donaldson; Jennifer Thompson
Date: 1/29/2015 1:24 PM
Subject: Fwd: RE: Cleeve Street Discontinuance Application

January 29, 2015

Memo To: Nell Donaldson
Barbara Barhydt
From: David Margolis-Pineo, Department of Public Services
Re: Discontinuance of Cleeve St – Great Diamond Island

On behalf of the Department of Public Services, we have no issues with the discontinuance of Cleeve Street between Crescent Avenue and Bay Avenue as proposed, with the condition of granting a pedestrian easement along the entire length of the former discontinued Cleeve Street.

545.35 v



Plan of a part of
Diamond Island.
Scale, 200ft. to 1 inch

Note: The Hearings on this plan are Magnetic

Copy of Plan
attached to report of
Joint Standing Committee on laying out
New Streets, filed in Office of City
Clerk, Oct. 29, 1892.
Streets laid out as on this plan, Nov. 9, 1892
Recorded in City Clerk's Record on Streets
Dec. 20, 1892 — on page 125

Joseph A. King
Franklin M. Lawrence
Seth L. Dearborn
Edwin L. Godding
Phillip H. Turner
Franklin M. Morse
Ansel R. Doten

Directors
D.I.A.

From: Jennifer Thompson
To: Helen Donaldson
Date: 3/4/2015 8:53 AM
Subject: Cleeve Street Discontinance

Hi Nell - My understanding from you is that, in connection with the pending request to discontinue a portion of Cleeve Street, the Planning Board asked questions about the City's rights with respect to Bay Avenue and other rights of way in that area of Great Diamond Island. My understanding is that Larry Walden, formerly of this office, previously did an analysis of that question and concluded that, at the very least, a public easement exists over Bay Avenue and the other rights of way such that the public does in fact have access rights to use those ways.

ORDER DISCONTINUING A PORTION
OF CLEEVE STREET

IT IS HEREBY ORDERED, that, pursuant to 23 M.R.S.A. § 3026, having given best practicable notice to all abutting land owners and to the City of Portland Planning Office, a portion of Cleeve Street, as described on Attachment 1, be and hereby is discontinued as a city street or town way, the City reserving a public easement for pedestrian and other limited passage over a part of the discontinued portion of Cleeve Street as described in Attachment 2. The City does not reserve a public utility easement for any public utilities; and

BE IT FURTHER ORDERED, no damages are to be paid in connection with this Order to Discontinue; and

ATTACHMENT 1

A certain lot or parcel of land situated on Great Diamond Island in the City of Portland, County of Cumberland, and State of Maine, being a portion of Cleeve Street as accepted by the City of Portland on November 8, 1892, and more particularly bounded and described as follows:

COMMENCING at the intersection of the westerly line of Crescent Avenue with the southeasterly line of Diamond Avenue;

THENCE S 66° 03' 54" W 111.59 feet, more or less, along the southeasterly line of Diamond Avenue to the **POINT OF BEGINNING**;

THENCE S 11° 36' 08" E 38.32 feet, more or less, along land now or formerly of Diamond Island Association as described in a deed recorded at the Cumberland County Registry of Deeds in Deed Book 492, Page 259, to a point along the northerly line of Cleeve Street;

THENCE S 76° 06' 56" E 120.77 feet, more or less, along said land now or formerly of Diamond Island Association and the northerly line of Cleeve Street to a point at the intersection of the northerly line of Cleeve Street with the westerly line of Crescent Avenue";

THENCE S 11° 36' 08" E 9.69 feet, more or less, along the extension of the westerly line of Crescent Avenue and crossing through Cleeve Street to an angle point;

THENCE S 16° 58' 04" W 41.31 feet, more or less, to a point at the intersection of the southerly line of Cleeve Street with the westerly line of Meadow Avenue;

THENCE N 76° 06' 56" W 219.65 feet, more or less, along the southerly line of Cleeve Street to an angle point in the easterly line of Bay Avenue;

THENCE N 11° 36' 08" W 17.91 feet, more or less, along the easterly line of Bay Avenue to a point at the intersection of Bay Avenue with the southeasterly line of Diamond Avenue;

THENCE N 66° 03' 54" E 111.59 feet, more or less, along the southeasterly line of Diamond Avenue to the **POINT OF BEGINNING**.

Bearings are based on the Maine State Coordinates, West Zone, NAD 1983, HARN, Grid North, and field surveys conducted by the City of Portland, Department of Public Services, Engineering Division.

Reference is made to a plan titled "Plan of a part of Diamond Island" dated 1882 on file as plan number 362/6 in the Engineering Archives of said Engineering Division.

Reserving, however, to the City of Portland a public easement for access to and from the so-called Bay Avenue and more particularly described in Attachment 2, attached hereto.

ATTACHMENT 2

A certain lot or parcel of land, 25 feet wide, situated on Great Diamond Island in the City of Portland, County of Cumberland, and State of Maine, being a portion of Cleeve Street to be discontinued by the City of Portland in 2015, and more particularly bounded and described as follows:

COMMENCING at the intersection of the westerly line of Crescent Avenue with the southeasterly line of Diamond Avenue;

THENCE S 66° 03' 54" W 208.77 feet, more or less, along the southeasterly line of Diamond Avenue, along land now or formerly of Diamond Island Association as described in a deed recorded at the Cumberland County Registry of Deeds in Deed Book 492, Page 259, and along the northerly line of a portion of Cleeve Street to be discontinued by the City of Portland to the **POINT OF BEGINNING**;

THENCE S 76° 06' 56" E 217.32 feet, more or less, along the centerline of said portion of Cleeve Street to be discontinued to a point along the extension of the westerly line of Meadow Avenue;

THENCE S 16° 58' 04" W 25.04 feet, more or less, along the extension of the westerly line of Meadow Avenue to a point at the intersection of the southerly line of Cleeve Street with the westerly line of Meadow Avenue;

THENCE N 76° 06' 56" W 219.65 feet, more or less, along the southerly line of said portion of Cleeve Street to be discontinued to a point in the easterly line of Bay Avenue;

THENCE N 11° 36' 08" W 17.91 feet, more or less, along the easterly line of Bay Avenue and westerly line of said portion of Cleeve Street to be discontinued to a point at the intersection of Bay Avenue with the southeasterly line of Diamond Avenue;

THENCE N 66° 03' 54" E 14.41 feet, more or less, along the southeasterly line of Diamond Avenue and along the northerly line of said portion of Cleeve Street to be discontinued to the **POINT OF BEGINNING**.

Meaning and intending to reserve to the City of Portland, Maine a public easement to be used solely for passive recreational uses and activities which shall be limited to pedestrian and non-motorized bicycle traffic for access to and from the so-called Bay Avenue. No motorized or mechanized, wheeled or tracked recreational vehicles of any kind may be operated or used on the easement area (described above), except that golf carts and wheelchairs or other similar non-recreational vehicles shall be permitted, subject to City regulation and control, in order to provide access over the easement area for the permitted uses and purposes. The City of Portland also reserves the right

to install and maintain at its sole cost and expense signage for and within the public easement reserved.

Bearings are based on the Maine State Coordinates, West Zone, NAD 1983, HARN, Grid North, and field surveys conducted by the City of Portland, Department of Public Services, Engineering Division.

Reference is made to a plan titled "Plan of a part of Diamond Island" dated 1882 on file as plan number 362/6 in the Engineering Archives of said Engineering Division.

PERKINS THOMPSON

ATTORNEYS & COUNSELORS AT LAW

ESTABLISHED 1877

ONE CANAL PLAZA
PO BOX 426
PORTLAND ME 04112
TEL 207.774.2635
FAX 207.877.8026

perkins-thompson.com

October 31, 2014

Barbara Barhydt, Development Review Manager
Planning Division, City of Portland
389 Congress Street
Portland ME 04101

RE: Petition for Discontinuance of Portion of Cleeve Street,
Great Diamond Island, Portland, Without Public Easement

Dear Ms. Barhydt:

Diamond Island Association (DIA) owns and operates a community center and library at Elwell Hall on Great Diamond Island. DIA wishes to restore a porch and balcony that long had been a part of this building, but which had been removed in the early 1960s. However, a portion of Elwell Hall is within a right of way of a portion of an accepted but unbuilt and unused City street – Cleeve Street. DIA owns the lot on the opposite side of this portion of Cleeve Street, so that discontinuance of this portion without retention of public easement would provide DIA with a sufficient combined lot area to meet all side and rear setbacks and lot coverage requirements to permit the porch and balcony restoration.

Therefore, in accordance with State law (23 MRSA § 3026), Diamond Island Association (DIA) hereby petitions to have that portion of Cleeve Street between the westerly boundary of Crescent Avenue and the easterly boundary of Casco Bay or Bay Avenue, which serves now as the westerly terminus of said Cleeve Street, together with the triangle of land between Cleeve Street and the southerly boundary of Diamond Avenue, all located on Great Diamond Island within the City of Portland and all as more generally depicted with hatch marks on the plan entitled "Boundary Plan, 8 Crescent Avenue, Great Diamond Island, Portland, Maine 04109" dated September 5, 2014 and prepared by Northeast Civil Solutions for Diamond Island Association, attached as **Exhibit B**, discontinued by the City of Portland **without retention of a public easement**.

Discontinuance of that portion of Cleeve Street without retention of a public easement will not impair public access to the water. As the enclosed photographs and City GIS view show, there is no path over Cleeve Street – in fact, tables are there. Access to the water traditionally has been over the portion of the accepted Diamond Avenue that is along the DIA/Elwell Hall lot, and this access will continue as it always has occurred.

PHILIP C. HUNT
JOHN S. UPTON
PEGGY L. McGEHEE
MELISSA HANLEY MURPHY
JOHN A. HOBSON
JAMES N. KATSIARCAS
TIMOTHY P. BENJOIT
GORDON SCANNELL, JR.
FRED W. BOFF III
MARK P. SNOW
WILLIAM J. SHIELS
DAVID B. McCONNELL
PAUL D. PIETROPAOLI
RANDY J. CRESWELL
JULIANNE C. RAY
DAWN M. HARMON
CHRISTOPHER M. DARGIE
STEPHANIE A. WILLIAMS
PETER J. MCCASSEL
SARA N. MOPPIN
SHAWN K. DOE
JOSEPH G. TALBOT
LAUREN B. WELVER
JOSEPH C. SWISKI

Barbara Baryhdt, City of Portland
October 31, 2014
Page 2

Cleeve Street was dedicated by the recording in the City Clerk's office on November 8, 1892 of a Plan in the City Clerk's office Volume 1, Page 224. The street was accepted by the City on November 8, 1892. (See copy of Street Record attached as Exhibit A.)

The only party owning property abutting the portion of Cleeve Street and the triangle to be discontinued is the Diamond Island Association.

We are obtaining letters from public utilities having lines or pipe or cables on Great Diamond Island – Portland Water District, Central Maine Power Company and FairPoint -- detailing whatever interests they have in the portion of Cleeve Street proposed to be discontinued. Copies of our letters to those utilities are enclosed, and we will provide responses from those utilities when they are obtained.

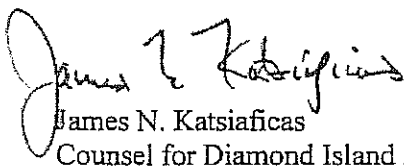
We understand that City Islands Liaison Michael Murray will supply a list of all property owners owning lots in the subdivision (**Exhibit C**) shown on the 1892 plan (copy of plan attached; here, this means all property owners whose lots are on the "public" side of Great Diamond Island) whose addresses appear in the City's assessment records, which list includes all owners of property abutting the portion of Cleeve Street proposed to be discontinued.

Also enclosed is the standard waiver and indemnification agreement provided by your office, signed by DIA President, Lyn Sala.

By separate letter to City Planning & Urban Development Department Head Jeffrey Levine and Planning Division Director Alex Jaegerman (copy enclosed), DIA is requesting a waiver of the \$2,000.00 fee that the City typically requires to cover your administrative costs and costs of providing notice to said property owners and mortgagees; therefore, no fee is enclosed with this application. DIA is acting on behalf of its more than 80 members to bring this discontinuance petition, and the additional land will permit expansion of Elwell Hall, a building that serves as a community center and library for the southern half of Great Diamond Island.

DIA hereby requests that the City take all further action necessary to complete discontinuing the above-described street. Please inform us if it is necessary for DIA to provide you with any further information, or take any further action. DIA understands that the matter will be brought up before the Planning Board for workshop and public hearing, that the Planning Board will make a recommendation to the City Council, and that final action on the street discontinuance will be made by the City Council.

Sincerely,


James N. Katsiaficas
Counsel for Diamond Island Association

cc: Jeffrey Levine, Planning & Urban Development, City of Portland

Barbara Baryhdt, City of Portland
October 31, 2014
Page 3

Alex Jaegerman, Director, Planning Division, City of Portland
Danielle West-Chuhta, Corporation Counsel, City of Portland
Lyn Sala, President, Diamond Island Association
Michael Burton, Diamond Island Association

STREET NAME: Portion of Cleeve Street (and adjoining triangle of land between it and Diamond Avenue right-of-way).

STREET DISCONTINUANCE REQUEST, REASON FOR REQUEST, AND DESCRIPTION OF THE EXTENT OF DISCONTINUANCE:

As stated in our letter of Oct. 31, 2014, Diamond Island Association requests the discontinuance of the portion of Cleeve Street that abuts the Elwell Hall Lot (83A-C-3) and of the adjoining triangle of land so that it may restore the porch and balcony of the Hall while meeting City zoning requirements.

CONTACT INFORMATION:

Applicant - must be owner, Lessee or Buyer Name: Diamond Island Association Business Name, if applicable: Address: City/State : Zip Code:	Applicant Contact Information E-mail: Home #: Work #: Cell #: Fax#:
Adjoining Owner - (if different from Applicant) Name: David Kaplan and Susan Baker Kaplan Address: 18 Crescent Ave., Great Diamond Island City/State : Portland, Zip Code: ME 04109	Owner Contact Information E-mail: Home #: Work #: Cell #: Fax#:
Agent/ Representative Name: James N. Katsiaficas, Esq. Perkins Thompson Address: One Canal Plaza, PO Box 426 Portland, ME 04112-0426 City/State : Zip Code:	Agent/Representative Contact information E-mail: jkatsiaficas@perkinsthompson.com Home #: Work #: (207) 400-8108 Cell #: (207) 400-7650 Fax#: (207) 871-8026
Billing Information Name: Address: City/State : Zip Code:	Billing Information E-mail: Home #: Work #: Cell #: Fax#:

Engineer Name: Address: City/State : Zip Code:	Engineer Contact Information E-mail: Home #: Work #: Cell #: Fax#:
Surveyor Name: Northeast Civil Solutions Address: 153 U.S. Route 1 Scarborough, ME 04074 City/State : Zip Code:	Surveyor Contact Information E-mail: Home #: Work #: (207) 883-1000 Cell #: Fax#: (207) 883-1001
Architect Name: Address: City/State : Zip Code:	Architect Contact Information E-mail: Home #: Work #: Cell #: Fax#:
Attorney Same as Agent/Representative Name: Address: City/State : Zip Code:	Attorney Contact Information E-mail: Home #: Work #: Cell #: Fax#:

APPLICATION FEES:

Check all reviews that apply. (Payment may be made by Credit Card, Cash or Check payable to the City of Portland.)

Street Discontinuance: A fee for the discontinuance must be submitted by check or credit card to the City of Portland in accordance with Section 14-54 of the Municipal Code along with direct reimbursement for noticing, legal ads, planner review time, and legal review.

___ \$2,000 – Public Street Discontinuance

The City invoices separately for the following:

- Notices (\$.75 each)
- Legal Ad (% of total Ad)
- Planning Review (\$40.00 hour)
- Legal Review (\$75.00 hour)

Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.

STREET DISCONTINUANCE APPLICATION			
Applicant Checklist	Planner Checklist	# of Copies	GENERAL WRITTEN SUBMISSIONS CHECKLIST
X		1	Completed Application form
X		1	Application fees (waiver requested)
X		1	Written description of project (in Oct. 31, 2014 letter)
X		1	Legal Description of Street or portion thereof to be discontinued (Oct. 31, 2014 letter)
X		1	Evidence of right, title and interest for applicant's property
X		1	List of all abutting property owners
X		1	List of all public utilities within the right-of-way. (in Oct. 31, 2014 letter)
X		1	Summary of existing and/or proposed easement, covenants, public or private rights-of-way, or other burdens on the street
X		1	Letters from public utilities detailing interests they have in all or portion of street to be discontinued. (Requested; one response included)
X		1	Petition for Street Discontinuance (template included as Attachment 1 to application form). (in Oct. 31, 2014 letter)
X		1	Waiver and Indemnification Form (template included as Attachment 2 to application form).
Applicant Checklist	Planner Checklist	# of Copies	SITE PLAN SUBMISSIONS CHECKLIST
X		1	Boundary Survey of applicant's property and Street meeting the requirements of Section 13 of the City of Portland's Technical Manual

APPLICATION SUBMISSION:

1. All site plans and written application materials must be submitted electronically on a CD or thumb drive with each plan submitted as separate files, with individual file which can be found on the Electronic Plan and Document Submittal page of the City's website at <http://me-portland.civicplus.com/764/Electronic-Plan-and-Document-Submittal>
2. In addition, one (1) paper set of the plans (full size), one (1) paper set of plans (11 x 17), paper copy of written materials, and the application fee must be submitted to the Building Inspections Office to start the review process.

The application must be complete, including but not limited to the contact information, application checklists, and applicant signature. The submissions shall include one (1) paper packet with folded plans containing the following materials:

1. One (1) full size site plans that must be folded.
2. One (1) copy of all written materials or as follows, unless otherwise noted:
 - a. Application form that is completed and signed.
 - b. Cover letter stating the nature of the project.
 - c. All Written Submittals (Sec. 14-527 (c), including evidence of right, title and interest.
3. A stamped standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 50 feet.
4. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
5. One (1) set of plans reduced to 11 x 17.

Please refer to the application checklist (attached) for a detailed list of submission requirements.

APPLICANT SIGNATURE:

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

This application is for a Street Discontinuance only. It is not a permit to begin construction. An approved site plan, a Performance Guarantee, Inspection Fee, Building Permit, and associated fees will be required prior to construction. Other Federal, State or local permits may be required prior to construction, which are the responsibility of the applicant to obtain.

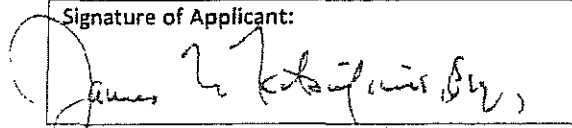
Signature of Applicant:  Authorized agent (attorney for) Diamond Island Association	Date: Nov. 7, 2014
---	-----------------------

EXHIBIT A

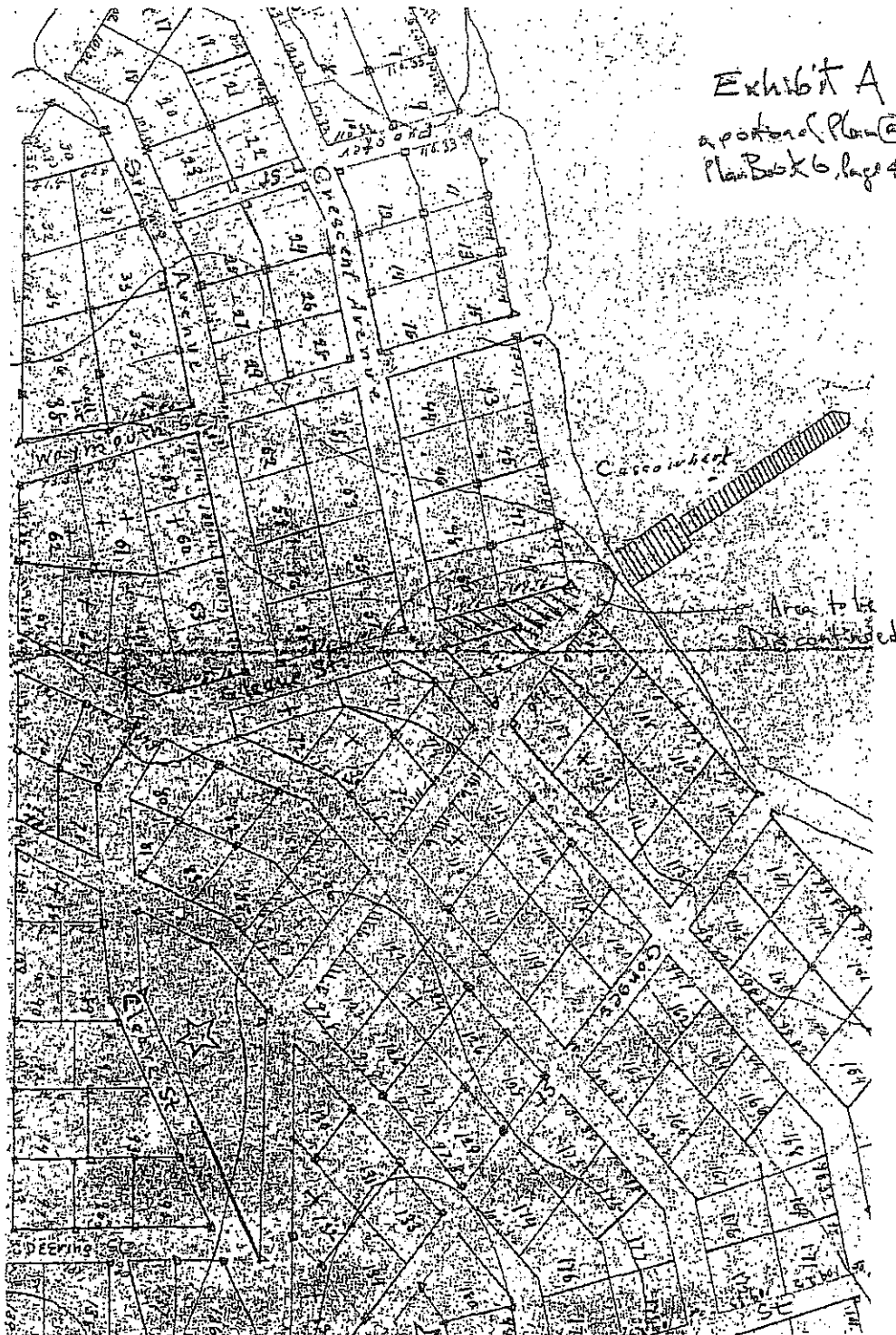


EXHIBIT B

Name

GREAT DIAMOND ISLAND

Section

To

DATE	DESCRIPTION	BOOK	PAGE
Nov. 8, 1892	All streets shown on Plan $\frac{362}{6}$ Acceptance	1	224
Feb. 1, 1960	Nancy Lane $\frac{76}{254}$ Public Landing to Valley St.	2	291
Feb. 1, 1960	Nicholas Street - from Nancy Lane $\frac{76}{256}$ Northeastly	2	292
Jun. 21, 1961	Nancy Ln - Public Landing to Valley St. - Cert. of Taking C.C.R.D.	$\frac{2611}{217}$	
Jun. 21, 1961	Nicholas St. - Nancy Lane Northeastly - Cert. of Taking C.C.R.D.	$\frac{2611}{219}$	

Street Record

Know all Men by these Presents, That

259

Edridge & C. Smith of Portland, County of Cumberland, Maine.

in consideration of Twenty-eight hundred Dollars paid by

The Diamond Island Association, a Corporation existing by Law and having

its location and place of business at said Portland, the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said Diamond Island Association, its successors

heirs and assigns forever, All that portion of Great Neck Island in said Portland, Smith

which was set off to James B. Flanders and Francis Flanders as

partitions between them and Martha Smith, deceased, and others, recorded, Diamond Island

in the Maine Reg. of Deeds Book 161 Page 145. Also all that portion of

said Island which was set off to them as partitions between them and

Edmund S. Smith and others recorded in said Registry Book Page 146

being also granted to me by the aforesaid recorded as above Book 16

Page 146 Page 147 with the right to use the wharf and road leading

across the same to the wharf situated on the shore of said Island, the same

being subject to the right of way and right to conduct and maintain

a wharf granted and described as a debt from Martha Smith, deceased

and others to the said State, recorded in said Registry Book 140

Page 145 and subject also to taxes for the current year which are to be

paid by the grantee.

I do have and to hold the aforesaid and bargained Premises, with all the privileges and appurtenances thereof, to the said Diamond Island Association, its successors

heirs and assigns, to their use and behoof forever. And do covenant with the said

Grantee, its successors heirs and assigns, that I am lawfully seized in fee of the premises, that they are free of all

incumbrances:

that I have good right to sell and convey the same to the said Grantee.

to hold as aforesaid; and that I and my heirs shall and will warrant and defend the same to the

said Grantee, its successors heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, I the said E. & C. Smith

and Maria G. Smith wife of the said E. & C. Smith

in testimony of the relinquishment of her right of dower in the above described premises, have hereunto

set our hand and seal this twenty-fifth day of September in the year of

our Lord one thousand eight hundred and eighty-nine.

Signed, Sealed and Delivered in presence of

Walter M. Smith, Edridge & C. Smith, Seal

Charles B. Smith, Maria G. Smith, Seal

State of Maine, Cumberland Co. October 20th 1882 Personally appeared

the above named Edridge & C. Smith

and acknowledged the above instrument to be his free act and deed.

Before me, L. H. Merrill, JUDGE OF THE PEACE.

Received October 22nd 1882, at 10 o'clock A.M., and recorded according to the original.

ATTEST: Frank H. Stevens, REC'D.

ABUTTER LIST

Applicant for discontinuance of portion of Cleeve Street and adjoining triangle of land is Diamond Island Association, owner of the parcel on City of Portland Map/Lot No. 83A-C-3, described in a deed recorded in the Cumberland county Registry of Deeds in Book 492, Page 259.

Abutter to the south across Cleeve Street is Diamond Island Association, with a parcel that shares the same City Tax Map and Lot No. and same deed reference.

Abutters to the north across Diamond Avenue are David Kaplan and Susan Baker Kaplan, whose lot at 18 Crescent Avenue, Great Diamond Island, Portland, is shown as City of Portland Map/Lot No. 83A-D-1 and is described in a deed recorded in said Registry of Deeds in Book 11779, Page 140.

WAIVER AND INDEMNIFICATION

WHEREAS, Diamond Island Association, a Maine corporation in good standing, has requested the City of Portland to discontinue the portion of a certain way known as Cleeve Street westerly of Crescent Avenue, along with the triangular area between Diamond Avenue, Cleve Street and the abutting property owned by Diamond Island Association, pursuant to 23 MRSA § 3026 *et seq.*

WHEREAS, the City of Portland as a condition precedent to the discontinuance of the way requires a waiver of any claims which Diamond Island Association may have against the City for such discontinuance, and further, requires indemnification against any claims of third persons arising out of or resulting from the discontinuance of said way;

NOW, THEREFORE, in consideration of the City of Portland discontinuing said proposed town way, Diamond Island Association for itself and its successors and assigns, agrees as follows:

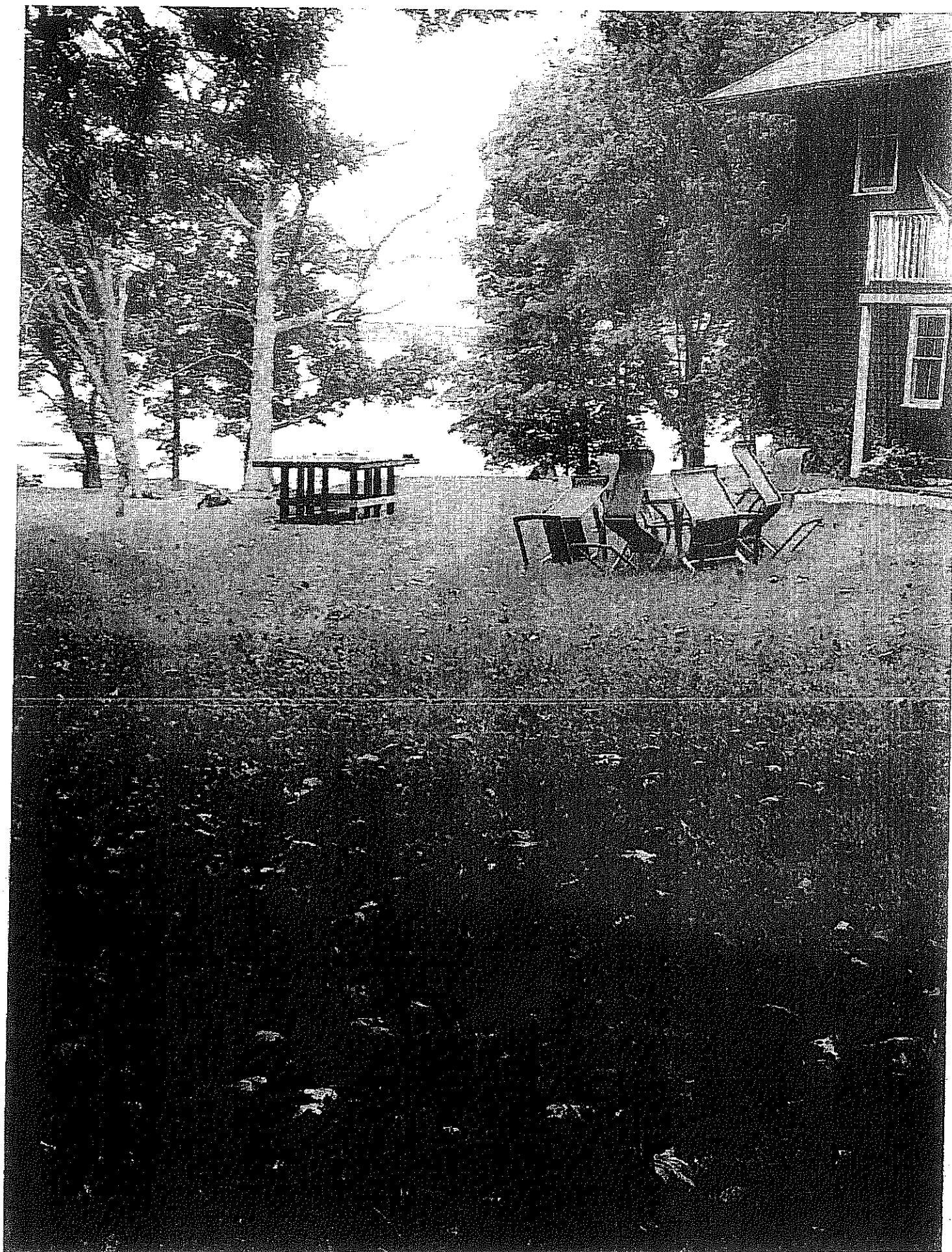
1. Diamond Island Association hereby waives any claim for damages which it may now or hereafter have against the City of Portland arising out of or resulting from the discontinuance of this way by the City pursuant to 23 MRSA § 3026 *et seq.*;
2. Diamond Island Association hereby agrees to indemnify and hold harmless the City of Portland against any claims by any third party against the City of Portland for damages arising out of or resulting from this discontinuance of said way by the City of Portland pursuant to said statute.

IN WITNESS WHEREOF, the DIAMOND ISLAND ASSOCIATION has caused this Agreement to be signed and sealed in its corporate name by Lyn Sala, its President, thereunto duly authorized, the day and year first written below.

Dated: 9-30-14

Diamond Island Association
By: 
Lyn Sala
Its President









Portland Water District

FROM SEBAGO LAKE TO CASCO BAY

November 3, 2014

Mr. James Katsiaficas
Perkins Thompson
One Canal Plaza
P. O. Box 426
Portland, Maine 04112

Re: Proposed Vacation of Portion of Cleave Street – Great Diamond Island

Dear Mr. Katsiaficas:

In response to your October 31, 2014 letter, the Portland Water District has no water facilities within that portion of Cleave Street on Great Diamond Island that at your client is proposing to vacate. I have attached a map showing our facilities in the area. Therefore, the District does not object to the vacation of that portion of the street.

If you have any questions or need anything further, do not hesitate to call me at 774-5961 ext. 3057.

Sincerely yours,

PORTLAND WATER DISTRICT

Norman V. Twaddel
Right of Way Agent

Enclosure





8 Crescent Avenue GDI

November 03, 2014

**CENTRAL MAINE
POWER**

March 5, 2015

James Katsiaficas
One Canal Plaza
PO Box 426
Portland, ME 04112

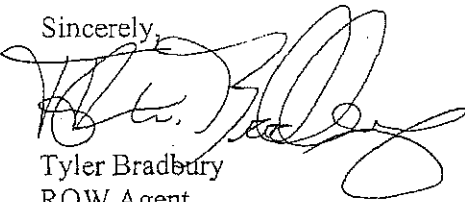
RE: Request for Utility Information on Facilities Located in or on Portion of Cleeve Street/Application to Discontinue Portion of Cleeve Street, Great Diamond Island, Portland Maine

Dear Mr. Katsiaficas,

Per your letter dated February 12, 2015 here is our response to your request.

Central Maine Power Company has no facilities or interest on that side of the building, we have one on the opposite side but that portion will be staying roadside. CMP has no opposition to the Diamond Island Association's discontinuance of this section of Cleeve Street, so-called, located on Great Diamond Island, Portland, Maine.

Sincerely,



Tyler Bradbury
ROW Agent
207-699-1058
Tyler.Bradbury@CMPCO.com



5 Davis Farm Road
Portland, Maine 04103
Office (207) 797-8251
Cell (207) 712-8047
dmurphy@fairpoint.com

March 6, 2015

Mr. James Katsiaficas
Perkins Thompson
One Canal Plaza
Portland, ME 04112

Subject: Request for response regarding the proposed discontinuance of a portion of Cleeve Street, on Great Diamond Island, Maine

Dear Mr. Katsiaficas,

In response to your October 31, 2014 and your February 12, 2015 letters, FairPoint Communications has no facilities or interests within the portion of Cleeve Street proposed to be discontinued. Therefore, for purposes related to current or future telecommunication facilities, FairPoint does not object to the discontinuance.

If you have any questions or desire further information, please call me at my office on (207) 797-8251, or on my cell phone at 207 712-8047, or you can contact me by email at dmurphy@fairpoint.com.

Very truly yours,
FairPoint Communications


Deborah N. Murphy
Right of Way Manager, Maine

PERKINS|THOMPSON
ATTORNEYS & COUNSELORS AT LAW

ESTABLISHED 1871

ONE CANAL PLAZA
PO BOX 426
PORTLAND ME 04112
TEL 207.774.2635
FAX 207.871.8026

www.perkinsthompson.com

February 12, 2015

Barbara Barhydt, Development Review Manager
Planning Division, City of Portland
389 Congress Street
Portland ME 04101

RE: Petition for Discontinuance of Portion of Cleeve Street.
Great Diamond Island, Portland.

Dear Ms. Barhydt:

I am writing to update the Petition for Discontinuance of Portion of Cleeve Street filed last October by Diamond Island Association (DIA) in advance of the February 24, 2015 Planning Board workshop on this matter.

First, we now have a property description for the proposed discontinuance which was prepared by William Clark of the City's Public Services Department (copy enclosed). I have reviewed that description and have discussed it with Mr. Clark, and believe that it is appropriate and suitable for this purpose. DIA greatly appreciates Mr. Clark's assistance.

Second, DIA had requested discontinuance of the portion of Cleeve Street without retention of a public easement by the City. While access to the water traditionally has been over the portion of the accepted Diamond Avenue that is along the northern side of the DIA/Elwell Hall lot and this access will continue as it always has occurred, the City has asked DIA if it would provide the City with a pedestrian access easement over the area proposed to be discontinued. DIA agrees to provide a 25-foot wide public pedestrian easement over the southern half of the discontinued portion of Cleeve Street to the City; please consider our petition as so amended.

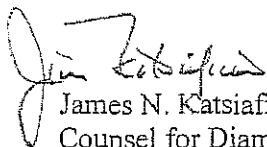
We still will request that the Council's discontinuance be without retention of public easement, since the defined term "public easement" as used in the discontinuance statute includes all access rights the public had enjoyed, which could be read to include rights of vehicular access. However, we will provide a separate easement to the City to be accepted by the Council immediately following the discontinuance; it would be part of the same Council proceeding and item. We will provide an updated plan following the Planning Board workshop that will depict this public pedestrian easement and are working with Corporation Counsel's Office to prepare a proposed order of discontinuance and public pedestrian easement so that these documents will be available when the Planning Board conducts a public hearing and makes its recommendation to the City Council.

PHILIP C. HUNT
JOHN S. UPTON
PEGGY L. McGEHEE
MELISSA HANLEY MURPHY
JOHN A. HOBSON
JAMES N. KATSIARCAS
TIMOTHY P. BENOIT
J. GORDON SCANNELL JR.
FRED W. BOFF III
MARK P. SNOW
WILLIAM J. SHELBS
DAVID B. McCONNELL
PAUL D. PIETROPAOLI
RANDY J. CRESWELL
JULIANNE C. RAY
DAWN M. HARMON
CHRISTOPHER M. DARGE
STEPHANIE A. WILLIAMS
PETER J. McDONELL
SARA N. MORRIN
SHAWN K. DOIL
JOSEPH G. TALBOT
LAUREN B. WEIVER
JOSEPH C. JIVISKI
JOHN W. MASLAND

Barbara Barhydt
February 12, 2015
Page 2

Thank you for your assistance in this matter.

Sincerely,



James N. Katsiaficas
Counsel for Diamond Island Association

cc: Jeffrey Levine, Planning & Urban Development, City of Portland
Alex Jaegerman, Director, Planning Division, City of Portland
Helen Donaldson, Planning Division, City of Portland
William Clark, Public Services, City of Portland
Jennifer L. Thompson, Associate Corporation Counsel, City of Portland
Lyn Sala, President, Diamond Island Association
Michael Burton, Diamond Island Association

A certain lot or parcel of land situated on Great Diamond Island in the City of Portland, County of Cumberland, and State of Maine, being a portion of Cleeve Street as accepted by the City of Portland on November 8, 1892, and more particularly bounded and described as follows:

COMMENCING at the intersection of the westerly line of Crescent Avenue with the southeasterly line of Diamond Avenue;

THENCE S 66° 03' 54" W 111.59 feet, more or less, along the southeasterly line of Diamond Avenue to the **POINT OF BEGINNING**;

THENCE S 11° 36' 08" E 38.32 feet, more or less, along land now or formerly of Diamond Island Association as described in a deed recorded at the Cumberland County Registry of Deeds in Deed Book 492, Page 259, to a point along the northerly line of Cleeve Street;

THENCE S 76° 06' 56" E 120.77 feet, more or less, along said land now or formerly of Diamond Island Association and the northerly line of Cleeve Street to a point at the intersection of the northerly line of Cleeve Street with the the westerly line of Crescent Avenue";

THENCE S 11° 36' 08" E 9.69 feet, more or less, along the extension of the westerly line of Crescent Avenue and crossing through Cleeve Street to an angle point;

THENCE S 16° 58' 04" W 41.31 feet, more or less, to a point at the intersection of the southerly line of Cleeve Street with the westerly line of Meadow Avenue;

THENCE N 76° 06' 56" W 218.32 feet, more or less, along the southerly line of Cleeve Street to an angle point in the easterly line of Bay Avenue;

THENCE N 11° 40' 13" W 18.74 feet, more or less, along the easterly line of Bay Avenue to a point at the intersection of Bay Avenue with the southeasterly line of Diamond Avenue;

THENCE N 66° 03' 54" E 110.39 feet, more or less, along the southeasterly line of Diamond Avenue to the **POINT OF BEGINNING**.

Bearings are based on the Maine State Coordinates, West Zone, NAD 1983, HARN, Grid North, and field surveys conducted by the City of Portland, Department of Public Services, Engineering Division.

Reference is made to a plan titled "Plan of a part of Diamond Island" dated 1882 on file as plan number 362/6 in the Engineering Archives of said Engineering Division.

Sonia Bean - Agenda Request Form - Cleeve Street Discontinuance, Great Diamond Island

From: Helen Donaldson
To: Danielle West-Chuhta; Jeff Levine; Jennifer Thompson; Michael Brennan...
Date: 3/25/2015 3:42 PM
Subject: Agenda Request Form - Cleeve Street Discontinuance, Great Diamond Island
CC: Alex Jaegerman; stuartobrien@me.com
Attachments: Agenda Request_Cleeve St. Discontinuance.pdf; Council Report Cleeve Street Discontinuance.pdf; Order Discontinuing Portion of Cleeve Street.pdf

Sonia,

Attached please find a council agenda request form and backup materials for the discontinuance of a portion of Cleeve Street on Great Diamond Island. Per Corporation Counsel, this item requires only one reading, and we are hoping to get on the agenda for 4/6.

Let me know if you need any additional information.

Thanks, Sonia.
Nell

Nell Donaldson
City of Portland Planning Division
389 Congress Street
Portland, Maine 04101
874-8723
hcd@portlandmaine.gov

*Order 204-14/15
Tab 3/ 4-6-15*

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

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROVING THE COLLECTIVE BARGAINING AGREEMENT WITH
COMMUNICATIONS EMPLOYEE ASSOCIATION**

ORDERED, that the attached Collective Bargaining Agreement with the
Communications Employee Association for July 1, 2013 through June 30,
2016 is hereby approved.

**CITY OF PORTLAND, MAINE
MEMORANDUM**

TO: Mayor Brennan and Members of the City Council

FROM: Thomas A. Caiazzo, Labor Relations Manager

DATE: March 25, 2015

RE: Tentative Agreement with:
Communications Employee Association - 1st Reading

Staff has reached a tentative agreement with the Communications Employee Association on a successor one year contract. The prior collective bargaining agreement expired June 30, 2013.

The Communications Employee Association, which is comprised of 30 Telecommunicators, Fire Alarm Specialist, Radio Systems Specialist and Telecommunications Supervisors, has reached a tentative agreement with the City. The Administration is requesting a first reading on April 6, 2015. The tentative agreement is within the guidance received by the City Council on February 23, 2015.

The City and the Communications Unit have reached a tentative agreement on a three (3) year contract with a 1.0% general wage increase for Fiscal Year (FY) 2014 retroactive to July 7, 2013; a 1.0% general wage increase retroactive to July 6, 2014; a 1.0% general wage increase retroactive to January 4, 2015 and a 3.0% general wage increase effective July 5, 2015. The duration of the contract and the COLA recommendations are consistent with the unified bargaining strategy previously discussed with the Council.

Other economic items tentatively agreed to are:

Article 24 - increase hours allowed for court time from 3 hours to 4 hours

Article 25.10.1 – increase EMD stipend from \$.375 to \$1.00 and rolled into base pay after COLA. This will include all Fire and Police protocols, not just Emergency Medical Dispatch.

Article 25.10.2 – increase Field Training stipend from \$.625 to \$1.00 for actual training hours

Article 25.10.5 – increase all shift differentials by \$.05 per hour

The union has further agreed to accept the proposed Health Plan changes in consideration of the above economic agreements.

This Agreement, once approved by Council will govern the rights of the parties from July 1, 2013 through June 30, 2016.

All other provisions of the collective bargaining agreement remain the same until a successor agreement is reached through collective bargaining. The total direct cost for the three year agreement is approximately \$165,000 of which \$79,000 has already been approved and appropriated through the FY 2014 and FY 2015 budget process..

Cc: Sheila Hill-Christian – Acting City Manager
Danielle West-Chuhta – Corporate Counsel
Jennifer Thompson – Associate Corporate Counsel
Michael Sauschuck – Portland Police Chief
Vernon Malloch – Assistant Police Chief
Jerry LaMoria – Fire Chief
Thomas Cavanaugh – Emergency Communications Director
Janice Kimball – Acting Human Resources Director
Brendan O'Connell – Finance Director
Carlene Kessler – Principal Admin Officer
Jennifer Lodge, Asst. Budget Director
Lori Schools, Financial Specialist

Order 205-14/15
Tab 32 4-6-15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AUTHORIZING GENERAL OBLIGATION BONDS
TO FINANCE A PORTION OF THE CITY'S 2016 CAPITAL IMPROVEMENT PROGRAM
IN AN AMOUNT NOT TO EXCEED \$18,731,000**

WHEREAS, Section 16(a) of the Portland City Charter requires that orders authorizing the issuance of general obligation securities of the City in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the City for a single capital improvement or item of capital equipment be submitted to a voter referendum; and

WHEREAS, Section 16(b) of the Portland City Charter states that the foregoing referendum requirement is not applicable to any construction or financing of improvements or equipment needed as a result of a declared emergency; and

WHEREAS, for purposes of Section 16(b) of the Portland City Charter, the City Council may by vote of at least seven (7) of its members adopt an emergency order authorizing construction or financing of improvements or equipment needed as a result of such declared emergency and such order shall contain a section in which the emergency is set forth and defined; and

WHEREAS, Section 16(b) of the Portland City Charter, further provides that the declaration of such emergency by the City Council shall be conclusive;

WHEREAS, the City has determined that it must finance and install a replacement public safety radio communication system as part of the City's 2016 Capital Improvement Program (the "Communication System Replacement" project listed on Exhibit A hereto) as soon as practicable and will finance such project by issuing its general obligation bonds in the amount not to exceed \$7,000,000 for such purpose;

NOW THEREFORE, FOLLOWING a public hearing of the City Council of the City of Portland, Maine, held upon due notice pursuant to Article VII, Section 9 of the City Charter, **IT IS HEREBY ORDERED THAT:**

There be and hereby is authorized and approved the incurring of indebtedness by the City of Portland and the issue and sale of general obligation bonds and notes in anticipation thereof in the aggregate principal amount not to exceed Eighteen Million Seven Hundred Thirty-one Thousand Dollars (\$18,731,000) to finance the items identified in the City's 2016 Capital Improvement Program attached hereto as Exhibit A and all other costs (as defined herein) related and ancillary thereto (the "Projects").

BE IT FURTHER ORDERED

1. That the City Council finds, determines and declares, with respect to the Communication System Replacement project, that an emergency exists with respect to the need to acquire and install such Communication System Replacement project within the meaning of Section 16(b)(iii) of the City Charter as follows:

- The current public safety radio communication system was installed approximately 15 years ago and is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the City Council finds, determines and declares that emergency circumstances exist under Section 16(b)(iii) of the City Charter requiring approval of the Communication System Replacement project and issuance of the City's bonds therefore without referendum approval.

BE IT FURTHER ORDERED:

1. That the Director of Finance be and hereby is authorized to prepare, issue, and sell such bonds in the name of and on behalf of the City, in the aggregate amount of \$18,731,000 (the "Bonds") at one time, or from time to time, as one or more separate bond issues, and to determine the date, form, minimum denomination, interest rates (as term bonds or serial bonds or some combination thereof), maturities (with the last maturity not to exceed the maximum term permitted by law) and all other details, terms and provisions, not inconsistent herewith, including the form and manner of their sale and award as he may approve, such approval to be conclusively evidenced by the execution thereof;

2. That the Director of Finance be and hereby is authorized to borrow money in anticipation of said Bonds by the issuance and sale of notes or renewal notes in anticipation of said Bonds ("BANs"), and to determine the date, form, minimum denominations, interest rate, maturities (with the last maturity not to exceed 3 years from its date of issuance) and all other details of each issue of BANs, including the form and manner of their sale and award, subject to the provisions of the law, the City Charter and this Order;

3. That the Director of Finance be and hereby is authorized to provide that any of the Bonds and BANs hereinbefore authorized be made subject to call for redemption, with or without premium, prior to their stated dates of maturity, as provided in 30-A M.R.S.A. §5772(6), as amended;

4. That each bond or note issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof;

5. That the Director of Finance is authorized to negotiate, execute, and deliver, in the name of and on behalf of the City such contracts, agreements, and other documents, including leases, instruments and certificates as may be necessary or appropriate as determined and approved by the Director of Finance in connection with the financing of the Projects, which documents shall be in such form and contain such terms and conditions, not inconsistent herewith, as may be approved by the Director of Finance such approval to be conclusively evidenced by his execution thereof;

6. That the Director of Finance be and hereby is authorized to select the underwriter for the Bonds or BANs heretofore authorized and the Director of Finance be and hereby is authorized and empowered to execute and deliver such contracts or agreements as may be necessary or appropriate in connection therewith;

7. That the Director of Finance be and hereby is authorized to prepare, or cause to be prepared, a Preliminary Official Statement and an Official Statement for use in the offering and sale of the Bonds or BANs heretofore authorized, such Preliminary Official Statement and Official Statement to be in such form and contain such information as may be approved by the Director of Finance, with the advice of the bond counsel for the City, and that the use and distribution of the Preliminary Official Statement and the Official Statement in the name of and on behalf of the City in connection with offering the Bonds or BANs for sale be and hereby is approved;

8. That the Director of Finance be and hereby is authorized to select the registrar, paying agent and transfer agent (the "Transfer Agent") for the Bonds or BANs heretofore authorized and to execute and deliver such contracts and agreements as may be necessary or appropriate to secure their services;

9. That the Bonds or BANs heretofore authorized shall be transferable only on the registration books of the City kept by the Transfer Agent, and said principal amount of the bonds of the same maturity (but not of other maturity) in minimum denominations of \$5,000 and any integral multiple in excess thereof upon surrender thereof at the principal office of the transfer agent, with a written instrument of transfer satisfactory to the transfer agent duly executed by the registered owner or his attorney duly authorized in writing. Upon each exchange or transfer of a bond the City and the Transfer Agent shall make a charge sufficient to cover any tax, fee or any other governmental charge required to be payable with respect to such exchange or transfer, and with respect to such exchange or transfer, and subsequent to the first exchange or transfer, the cost of preparing new bonds upon exchanges or transfer thereof to be paid by the person requesting the same;

10. That the Director of Finance be and hereby is authorized to undertake all acts necessary to provide for the issuance and transfer of such Bonds or BANs heretofore authorized in book-entry form pursuant to the Depository Trust Company Book-Entry Only System, as an alternative to the provisions of the foregoing paragraph above regarding physical transfer of Bonds or BANs, and the Director of Finance be and hereby is authorized and empowered to enter into a Letter of Representation or any other contract, agreement or understanding necessary or, in his opinion, appropriate in order to qualify the Bonds or BANs for and participate in the Depository Trust Company Book-Entry Only System;

11. That the Director of Finance and Mayor from time to time shall execute such Bonds or BANs as may be required to provide for exchanges or transfers of Bonds or BANs as heretofore authorized, all such Bonds or BANs to bear the original signature of the Director of Finance and Mayor, and in case any officer of the City whose signature appears on any Bond or BAN shall cease

to be such officer before the delivery of said Bond or BAN, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery thereof;

12. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the Director of Finance be and hereby is authorized and directed to covenant and certify on behalf of the City that no part of the proceeds of the issue and sale of the Bonds or BANs authorized to be issued hereunder shall be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause such Bonds or BANs to be "arbitrage bonds" or "private activity bonds" within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended;

13. That if the Bonds or BANs, or any part of them, are issued on a tax-exempt basis, the officers or officials executing the Bonds or BANs be and hereby are individually authorized to covenant and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports and take any other action that may be necessary to insure that interest on the notes will remain exempt from federal income taxation, and that the City will refrain from any action that would cause interest on the Bonds or BANs to be subject to federal income taxation;

14. That the officers executing the Bonds or BANs be and hereby are individually authorized to covenant, certify and agree, on behalf of the City, for the benefit of the holders of such Bonds or BANs, that the City will file any required reports, make any annual financial or material event disclosure, and take any other action that may be necessary to insure that the disclosure requirements imposed by Rule 15c2-12 of the Securities and Exchange Commission, if applicable, are met;

15. That any or all of the Bonds or BANs issued hereunder may be consolidated with and become a part of any other issue of temporary notes or general obligation bonds authorized to be issued by any previous or subsequent order of the City Council of the City of Portland;

16. That the term "cost" or "costs" as used herein and applied to the Projects, or any portion thereof, includes, but is not limited to (1) the purchase price or acquisition cost of all or any portion of the Projects; (2) the cost of construction, building, alteration, enlargement, reconstruction, renovation, improvement, and equipping of the Projects; (3) the cost of all appurtenances and other facilities either on, above, or under the ground which are used or usable in connection with the Projects; (4) the cost of landscaping, site preparation and remodeling of any improvements or facilities; (5) the cost of all labor, materials, building systems, machinery and equipment; (6) the cost of land, structures, real property interests, rights, easements, and franchises acquired in connection with the Projects; (7) the cost of all utility extensions and site improvements and development; (8) the cost of planning, developing, preparation of specifications, surveys, engineering, feasibility studies, legal and other professional services associated with the Projects; (9) the cost of environmental studies and assessments; (10) the cost of financing charges and issuance costs, including premiums for insurance, interest for a period not to exceed three years from the issue date of the Bonds, and for any additional period permitted under Section 148 of the Internal Revenue Code of 1986, as amended, underwriters' fees and costs, legal and accounting fees and costs, application fees, and other fees and expenses relating to the financing transaction; and (11) the cost of all other financing authorized hereunder, whether related or unrelated to the foregoing;

17. That if the actual cost of any Project differs from the estimated cost on the attached Exhibit A, the Director of Finance is authorized, in his discretion to reallocate proceeds of the Bonds to any other listed Project.

18. That the Director of Finance, Mayor and Clerk and other proper officials of the City be, and hereby are authorized and empowered in its name and on its behalf to do or cause to be done all such acts and things, not inconsistent herewith, as may be necessary or desirable in order to effect the issuance, sale and delivery of the Bonds or BANs hereinabove authorized;

19. That if any of the officers or officials of the City who have signed or sealed the Bonds shall cease to be such officers or officials before the Bonds or BANs so signed and sealed shall have been actually authenticated or delivered by the City, such Bonds or BANs nevertheless may be authenticated, issued, and delivered with the same force and effect as though the person or persons who signed or sealed such Bonds or BANs had not ceased to be such officer or official; and also any such bonds or notes may be signed and sealed on behalf of the City by those persons who, at the actual date of the execution of such Bonds or BANs, shall be the proper officers and officials of the City, although at the nominal date of such Bonds or BANs any such person shall not have been such officer or official;

20. That if the Director of Finance, Mayor or Clerk are for any reason unavailable to approve and execute the Bonds or BANs or any other documents necessary or convenient to the issuance, execution and delivery of the Bonds or BANs, the person or persons then acting in any such capacity, whether as an assistant, a deputy, or otherwise, is authorized to act for such official with the same force and effect as if such official had performed such act.

21. That the Bonds or BANs authorized by this Order are in addition to any bonds or notes previously authorized for the same or similar purposes;

22. That to the extent not payable from other funds, an amount sufficient for the payment of the annual payments of principal and interest on the Bonds or any BANs issued hereunder shall be included in the tax levy of each year until the debt represented by said Bonds or BANs is extinguished.

23. That during the term any of the Bonds (or bonds issued to refund such Bonds) are outstanding, the Director of Finance be and hereby is authorized to issue and deliver refunding bonds to refund some or all of the Bonds then outstanding, and to determine the date, form, interest rate, maturities and all other details of such refunding bonds, including the form and manner of their sale and award. The Director of Finance be and hereby is further authorized to provide that any of such refunding bonds hereinbefore authorized be made callable, with or without premium, prior to their stated date(s) of maturity, and each refunding bond issued hereunder shall be signed by the Director of Finance and by the Mayor, either or both of whose signatures may be by facsimile to the extent permitted by law, attested to by the City Clerk, under the seal of the City, and shall be in such form and contain such terms and provisions not inconsistent herewith as they may approve, their approval to be conclusively evidenced by their execution thereof.

Exhibit A

Transportation Projects

PACTS/Match

PACTS Regional Transportation Management Systems (RTMS) -

Traffic Signals

\$100,000

Streets/Sidewalks

Paving Preservation and Rehabilitation

1,000,000

Sidewalk Rehabilitation/Accessibility

500,000

Transportation Projects Total

\$1,600,000

Facilities Projects

Buildings/Garages

Fire Alarm & Sprinkler Systems at all Fire Stations

\$75,000

Waterproof Decking Recoat at Temple Street Parking Garage

305,000

Ultra Violet Water Treatment System at Riverton Pool

50,000

Passenger Elevator at City Hall

100,000

Seating at Hadlock Field

190,000

Bleachers at Ice Arena

100,000

Roof Deck at Spring Street Parking Garage

500,000

Library Roof Section

25,000

Marine

Compass Park Pier Stabilization

30,000

Piles at Portland Ocean Terminal

280,000

Steel Piles at Ocean Gateway Pier (engineering)

100,000

Schools

PATHS Paving

450,000

Fire Alarm System at Portland High School

150,000

Windows at Deering High School

250,000

Oil Tanks Removal at Various School Buildings

100,000

Facilities Projects Total

\$2,705,000

Parks, Fields and Trails Projects

Parks, Fields, Trails

Payson Park Softball Field "A" - Amenity and Field Upgrades

\$200,000

Lyman Moore Sports Complex

275,000

Capisic Pond Improvements

565,000

Golf Course Rehabilitation

100,000

Parks, Fields and Trails Projects Total

\$1,140,000

Equipment and Vehicles Projects

Equipment

Communication System Replacement

\$7,000,000

Vehicles

30 Passenger Bus - School

50,000

Full Size Bus - School

90,000

7 Passenger Van - School	50,000
Medcu Ambulance Replacement - Fire	265,000
Police Cruisers (4) Replacement - Police	160,000
Ladder 1 Replacement - Fire	1,300,000
Bucket Truck Replacement - Forestry 5098	220,000
Equipment and Vehicles Projects Total	<u>\$9,135,000</u>

Sewer / Stormwater Projects

Buildings/Garages

Water Resource Relocation	\$250,000
---------------------------	-----------

Parks, Fields, Trails

Capisic Pond Improvements	560,000
---------------------------	---------

Sewer

CMOM - Sewer System Renewal	1,100,000
CMOM - Pump Station Rehabilitation	670,000
Rowe Avenue Sewer Separation	210,000

Stormwater

Stormwater Storage and Filtration Systems at Sagamore Village (Engineering)	120,000
Gravel Wetland Stormwater Treatment System in the Capisic Brook Watershed (Engineering)	175,000

Vehicles

Dump Truck Replacement - Public Services 3112	165,000
Dump Truck Replacement - Sewer 3110	165,000
Street Sweepers Replacement	175,000
CCTV Truck - NEW	415,000

Sewer / Stormwater Projects Total	<u>\$4,005,000</u>
-----------------------------------	--------------------

Public Art Projects	\$73,000
---------------------	----------

Land Bank Projects	\$73,000
--------------------	----------

TOTAL CIP FINANCED	<u>\$18,731,000</u>
---------------------------	----------------------------



Merrill's Wharf
254 Commercial Street
Portland, ME 04101
207-791-1100

Memo

To: Suzanne Knight, Interim Director of Finance
From: Jim Saffian, Bond Counsel
Date: February 19, 2015
Re: City Charter Referendum Requirements

This memorandum discusses the Portland Charter referendum requirements as they relate to the proposed City financing of a replacement public safety radio communication system.

Article VII, Section 16(a)(1) of the City Charter, states that:

(a) The city council shall submit the following to voter referendum:

- (1) Orders or resolves authorizing the issuance of general obligation securities of the city in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement or item of capital equipment; or

Thus, based on the City's current 2015 State Valuation of \$7,707,200,000, a bond order in the amount of \$3,853,600 or more for a single capital improvement or item of capital equipment, unless excepted under Article VII, Section 16(b), would trigger the referendum requirement. Article VII, Section 16(b) provides for the following three exceptions to the referendum requirement: (i) refunding bonds, (ii) street, storm water and sewer bonds and (iii) bonds for a declared emergency.

(b) The provisions of this section shall not be applicable to any order or resolve authorizing (i) the refunding of any securities or other obligations of the city; (ii) the issuance of general obligation securities, or other direct or indirect obligations, of the city for streets, sidewalks, or storm or sanitary sewers; or (iii) any construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other declared emergency. For purposes of this section, the city council may by vote of at least seven (7) of its members adopt emergency orders or resolves authorizing construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other emergency and such orders or resolves shall contain a section in which the

emergency is set forth and defined; provided, however, that the declaration of such emergency by the city council shall be conclusive.

The currently installed public safety radio communication system (now being replaced) financed with a portion of the City's 1998 Bonds was submitted to a referendum vote. In 2002, we concluded that certain additional and unexpected costs of the 1998 project (necessary to fix dead space or black out areas) should be considered as part of the same "single" capital improvement and thus also subject to the City Charter bond referendum requirement. This was so even though the additional amount, standing alone, was less than the then-current referendum triggering threshold. At that time, however, the City Council elected to authorize the additional bonding amount under the "declared emergency" provision of paragraph 16(b), thus avoiding the referendum requirement for the additional financing amount.

I understand that the City is currently confronting a similar situation. The existing public safety communication system is approaching the end of its useful life. Vendor support for repairs and upgrades to the system is also reaching an end point. In addition to any negative impact this may have on Portland residents, the City is now part of a combined dispatch system with South Portland and Cape Elizabeth. Thus, the City Council could conclude that these circumstances create an unsafe environment for City residences and City safety personnel and for the populations in the South Portland and Cape Elizabeth communities as well. Based on this public safety issue, there is therefore an urgent and unavoidable need to replace the current system with an up-to-date system that provides better reliability and coverage. The new system would ameliorate these concerns and would enhance the public safety of both the residents of the City and City public safety personnel as well as the residents in the combined public safety dispatch territory.

If the City Council determines that it would be appropriate to take this action, then the City Council (by a vote of 7 of its members) can define and declare the emergency circumstances that justify the referendum exception when it adopts the bond order for the replacement public safety radio communication system. Based on the discussion above, in this instance the circumstances giving rise to the emergency would be along the lines of the following:

- The current public safety radio communication system is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the

City Council finds and declares that emergency circumstances exist requiring approval of the project and issuance of the City's bonds therefore without referendum approval.

Thus, by an appropriately drafted City Council Order and related City Council findings and declarations, the project and bonds could be approved by the City Council without a referendum vote under the requirements that pertain in the City Charter.

I hope this information is helpful to you as you complete your planning for the project. Please give me a call if you have any further questions.



TO: City Council

FROM: Ian Houseal, Assistant to the City Manager

DATE: April 6, 2015

DISTRIBUTION: Sheila Hill-Christian, Michael Brennan, Danielle West-Chuhta, Sonia Bean, Nancy English

SUBJECT: Capital Improvement Plan FY 2016 – FY 2020

SPONSOR: Nicholas Mavodones, Chair, Finance Committee

I. SUMMARY OF ISSUE

The primary action that the City Council will take related to the Capital Improvement Plan is authorizing general obligations bonds and appropriating bond proceeds to fund the proposed 2016 capital budget. Since payments on the debt will not begin until Fiscal Year 2017, the City Council is making a decision that will not impact this coming year's operating budget (FY2016), but the following year's operating budget (FY2017). The secondary action the City Council will take is declaring that emergency circumstances exist that justifies the referendum exception when it adopts the bond orders for the replacement public safety radio communication system. The system is obsolete and if the system was to fail an emergency situation exists because there would be no emergency communication system in the cities of Portland or South Portland.

Overall, the Capital Improvements Plan (CIP) presents the City's capital needs in the current year and plans for capital needs in future years. It is also a financing plan for public improvement projects that require significant capital investment for the City. The purpose of developing and annually updating a five-year CIP is to inform policy makers and community of both the current and future capital needs of the community and balanced those needs with the City's debt position, public expectations, and the ability of the City's operating budget to fund capital projects.

Approximately half of the General Fund 2016 capital budget (\$14.7 Million) proposed for authorization and appropriation by the City Council is funding for the necessary replacement of the Public Safety Communication System (\$7 Million estimate) which at this point is obsolete and needs to be replaced as an emergency. The remaining capital projects are critical to maintaining the City's assets; however, in an effort to minimize the immediate impact to the FY2017 operating budget from borrowing resulting from the FY2016 CIP and to minimize long-term tax rate increases, there were numerous capital maintenance projects that were deferred for later years including over a \$1 Million in vehicle replacements such as snow plows, police cruisers and parking enforcement vehicles. Additionally, needed street repairs and sidewalk repairs were deferred to later years. Street reconstructions were also deferred as well as important projects such as renovating library facilities and making investment to the waterfront.

Even with deferred maintenance as is proposed in the 2016 Capital Improvement Plan, the net increase to the FY2017 operating budget will be approximately \$450,000 from capital or \$1,220,000 from all debt (i.e. Pension Bond). The resulting tax rate increase in FY2017 from committed to FY2015 and projected FY2016 debt payments is estimated to be an increase of approximately \$0.25 per \$1,000 of value on the tax rate from all forms of debt and \$0.06 per \$1,000 of value from capital borrowing alone.

II. REASON FOR SUBMISSION

These documents are being submitted to finalize the 2016 capital budget.

III. INTENDED RESULT

Action by the City Council will allow for construction of projects necessary to maintain the City's streets, sidewalks, buildings, waterfront, parks, fields, trails, and vehicles, and emergency communication system.

IV. COUNCIL GOAL ADDRESSED

Pursuant to the 2011 amendments to the City Charter (Article VI, Section 5, paragraph (i)), one of the City Manager's duties is to "prepare a five (5) year rolling Capital Improvement Plan for annual presentation to the City Council, which Plan includes the following:

1. A one (1) year plan of specific projects and their costs;
2. A two (2) through five (5) year plan of specific projects and general categories, and amounts of proposed spending and funding sources; and
3. A discussion of the basis for the plan and the factors which went into its development or amendments."

V. FINANCIAL IMPACT

While the decision to fund the 2016 Capital Budget does not impact the upcoming FY2016 budget, it does impact the FY2017 operating budget. And even with deferred maintenance as is proposed in the 2016 Capital Improvement Plan, the net increase to the FY2017 operating budget will be approximately \$450,000 from capital or \$1,220,000 from all debt (i.e. Pension Bond). The resulting tax rate increase in FY 2017 from committed to FY2015 and projected FY 2016 debt payments is estimated to be an increase of approximately \$0.25 per \$1,000 of value on the tax rate from all forms of debt and \$0.06 per \$1,000 of value from capital borrowing alone.

VI. STAFF ANALYSIS

The 2016 capital budget presents a list of projects necessary to maintain critical public assets. Approximately half of the General Fund 2016 capital budget (\$14.7 Million) proposed for authorization by the City Council is funding for the necessary replacement of the Public Safety Communication System (\$7 Million estimate) which at this point is obsolete and needs to be replaced as an emergency. The remaining capital projects are critical to maintaining the City's assets; however, in an effort to minimize the immediate impact to the FY2017 operating budget from borrowing resulting from the FY2016 CIP

and to minimize long-term tax rate increases, there were numerous capital maintenance projects that were deferred for later years including over a \$1 Million in vehicle replacements such as snow plows, police cruisers and parking enforcement vehicles. Additionally, needed street repairs and sidewalk repairs were deferred to later years. Street reconstructions were also deferred as well as important projects such as renovating library facilities and making investment to the waterfront.

This year's Five-year Capital Improvement Plan presents a capital maintenance funding program that balance maintaining roads, sidewalks, facilities (School and City), parks and open space, as well as the City's vehicle fleet with minimizing the impact from capital expenditure on the operating budget and minimizing potential tax rate increases. **The presented five-year Plan, in years two through five, shows the maximum funding-levels available so as not to increase operating budget expenditure.**

In addition, there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the City Council can find and declare that emergency circumstances exists requiring approval of the project and issuance of the City's bonds therefore without referendum approval.

VII. RECOMMENDATION

The Finance Committee voted to recommend the 2016 capital budget to the City Council.

Additionally, the Finance Committee voted to recommend that the City Council declare that emergency circumstances exist that justifies the referendum exception when it adopts the bond orders for the replacement public safety radio communication system. The circumstances giving rise to the emergency include the following:

- The current public safety radio communication system is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;

VII. LIST ATTACHMENTS

- Bond Counsel Memorandum – Emergency Communication System Referendum Requirements
- Capital Improvement Plan (FY 2016 – FY 2020) [abbreviated- full document available on the City Manager webpage]
- Finance Committee Material – February 24, 2015
- Finance Committee Material – March 17, 2015
- Finance Committee Workshop Material – March 17, 2015

Finance Committee
Meeting Minutes
Thursday, March 26, 2015

Attendees: Chair Mavodones, Vice Chair Duson, Committee members Hinck and Suslovic; Justin Costa, Sheila Hill-Christian. School board members Superintendent Chaulk, Committee members Seeliger, Trevorrow and Katzenbueler; members of the public and city and school staff

Chair Mavodones opened the meeting – called to order

1. FY '16 School Budget

Superintendent Chaulk provided a detailed outline of the school budget.

2. CIP Budget

CIP Budget discussion. Public comment was taken.

Ian Houseal explained that the CIP Budgets prepared for the Committee's action includes two options, as requested by the Committee, to either include the Capisic Pond Improvement Project funded: 50% General Fund and 50% Sewer Fund or not including the Capisic Pond Improvement Project.

Councilor Suslovic moved to recommend CIP Budget including Capisic Pond as presented to Finance Committee, seconded by Councilor Duson. Motion passed 3-1.

The Emergency Communications System was discussed. Councilor Duson made a motion to declare the Emergency Communications System Project an emergency. Seconded by Councilor Suslovic. Motion was passed 3 – 1.

Meeting adjourned.

Memo

To: Suzanne Knight, Interim Director of Finance
From: Jim Saffian, Bond Counsel
Date: February 19, 2015
Re: City Charter Referendum Requirements

This memorandum discusses the Portland Charter referendum requirements as they relate to the proposed City financing of a replacement public safety radio communication system.

Article VII, Section 16(a)(1) of the City Charter, states that:

(a) The city council shall submit the following to voter referendum:

- (1) Orders or resolves authorizing the issuance of general obligation securities of the city in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement or item of capital equipment; or

Thus, based on the City's current 2015 State Valuation of \$7,707,200,000, a bond order in the amount of \$3,853,600 or more for a single capital improvement or item of capital equipment, unless excepted under Article VII, Section 16(b), would trigger the referendum requirement. Article VII, Section 16(b) provides for the following three exceptions to the referendum requirement: (i) refunding bonds, (ii) street, storm water and sewer bonds and (iii) bonds for a declared emergency.

(b) The provisions of this section shall not be applicable to any order or resolve authorizing (i) the refunding of any securities or other obligations of the city; (ii) the issuance of general obligation securities, or other direct or indirect obligations, of the city for streets, sidewalks, or storm or sanitary sewers; or (iii) any construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other declared emergency. For purposes of this section, the city council may by vote of at least seven (7) of its members adopt emergency orders or resolves authorizing construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other emergency and such orders or resolves shall contain a section in which the

emergency is set forth and defined; provided, however, that the declaration of such emergency by the city council shall be conclusive.

The currently installed public safety radio communication system (now being replaced) financed with a portion of the City's 1998 Bonds was submitted to a referendum vote. In 2002, we concluded that certain additional and unexpected costs of the 1998 project (necessary to fix dead space or black out areas) should be considered as part of the same "single" capital improvement and thus also subject to the City Charter bond referendum requirement. This was so even though the additional amount, standing alone, was less than the then-current referendum triggering threshold. At that time, however, the City Council elected to authorize the additional bonding amount under the "declared emergency" provision of paragraph 16(b), thus avoiding the referendum requirement for the additional financing amount.

I understand that the City is currently confronting a similar situation. The existing public safety communication system is approaching the end of its useful life. Vendor support for repairs and upgrades to the system is also reaching an end point. In addition to any negative impact this may have on Portland residents, the City is now part of a combined dispatch system with South Portland and Cape Elizabeth. Thus, the City Council could conclude that these circumstances create an unsafe environment for City residences and City safety personnel and for the populations in the South Portland and Cape Elizabeth communities as well. Based on this public safety issue, there is therefore an urgent and unavoidable need to replace the current system with an up-to-date system that provides better reliability and coverage. The new system would ameliorate these concerns and would enhance the public safety of both the residents of the City and City public safety personnel as well as the residents in the combined public safety dispatch territory.

If the City Council determines that it would be appropriate to take this action, then the City Council (by a vote of 7 of its members) can define and declare the emergency circumstances that justify the referendum exception when it adopts the bond order for the replacement public safety radio communication system. Based on the discussion above, in this instance the circumstances giving rise to the emergency would be along the lines of the following:

- The current public safety radio communication system is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the

City Council finds and declares that emergency circumstances exist requiring approval of the project and issuance of the City's bonds therefore without referendum approval.

Thus, by an appropriately drafted City Council Order and related City Council findings and declarations, the project and bonds could be approved by the City Council without a referendum vote under the requirements that pertain in the City Charter.

I hope this information is helpful to you as you complete your planning for the project. Please give me a call if you have any further questions.

City of Portland

CAPITAL IMPROVEMENT PLAN

FY 2016 – FY 2020



April 2015

(Page intentionally left blank)

Table of Contents

Introduction..... 4

Needs Assessment 9

A. Funding Summary 16

B. Capital Projects (2016)

 General Fund 18

 Sewer Fund..... 20

C. Capital Improvement Plan (5-Year)

 General Fund..... 23

 Sewer Fund..... 27

D. Debt Management Strategy 29

E. Project Descriptions 30

Introduction

The Capital Improvements Plan (CIP) presents the City's capital needs in the current year and plans for capital needs in future years. It is also a financing plan for **public improvement projects** that require significant capital investment for the City. The purpose of developing and annually updating a five-year CIP is to inform policy makers and community of both the current and future capital needs of the community and balanced those needs with the City's debt position, public expectations, and the ability of the City's operating budget to fund capital projects.

The capital plan is not intended to predetermine that a project will be funded, but is intended to be a living and flexible document that considers capital needs in the community and balances those needs with what the City can afford.

Generally, capital improvements projects consist of purchasing, constructing or renovating structures, acquiring land and/or purchasing major equipment or vehicles that have a total cost of at least \$10,000 and a useful life of more than five years. Common CIP projects include new vehicles, new or improved sidewalks, roads, neighborhood renewal projects and new City facilities, such as schools and other facilities.

The CIP, which is updated annually specifies and describes the City's capital project schedules and priorities for the next five years. The CIP attempts to reflect Government Financial Officer Association (GFOA) best practices for multi-year capital planning and asset assessment, maintenance, and replacement.

This Capital Improvement Plan meets the following requirements. Pursuant to the 2011 amendments to the City Charter (Article VI, Section 5, paragraph (i)), one of the City Manager's duties is to "prepare a five (5) year rolling Capital Improvement Plan for annual presentation to the City Council, which Plan includes the following:

1. A one (1) year plan of specific projects and their costs;
2. A two (2) through five (5) year plan of specific projects and general categories, and amounts of proposed spending and funding sources; and
3. A discussion of the basis for the plan and the factors which went into its development or amendments."

CIP Preparation

City Departments reviewed and developed potential CIP projects (including those submitted by the community) and submitted projects for consideration in the CIP. Each capital project request includes a project description, justification, proposed funding levels and sources and, if applicable, estimated ongoing operating costs. For projects already underway, the description also notes the remaining portion of the project's budget.

Each project was then reviewed by City staff and evaluated as to whether it was critical to maintaining a City asset. Projects that were deemed critical were recommended based on the projected availability of funds in future years.

A list of specific projects and their costs and the Capital Improvement Plan was then prepared and presented to the City Council Finance Committee for consideration. The Finance Committee then recommended the list of specific projects and their costs to the City Council with a recommendation to fund the borrowing portion of the Plan.

Relationship to the Annual Operating Budget

Some projects listed in the CIP are recommended for funding through annual operating funds in the upcoming operating budget while other projects are recommended for funding through borrowing. Projects funded through borrowing impact the operating budget through ongoing debt service expenses. Some CIP projects also directly impact the operating budget in that they will require ongoing expenses for staff and other operating costs.

The projects funded through borrowing in the coming year impact the following year's operating budget dependent on when bonds are issued. From a financial planning standpoint the CIP attempts to balance deferring maintenance and other capital investments with the increased expenditure from borrowing and then debt payments from that borrowing that then needs to be offset by increasing revenue (e.g. property taxes).

In summary, funding for capital projects comes from four general sources:

- Funds received through the sale of bonds including general obligations bonds (repaid through taxes on property) and sometimes revenue supported bonds (repaid through utility charges);
- Money from the City's general fund (annual operating budget); or
- Other loans, grants or other Federal/State aid.

Funding Summary

Given the City's consistently strong financial position, managing the overall debt level and ability to service that debt remain critical factors in maintaining a strong credit rating. At the present time, the City's outstanding authorized and issued debt for city and school funds is approximately \$219 Million.

Outstanding Debt Authorized and Issued as of June 30, 2014

General City	108,760,921
Pension	110,210,000
<u>Sewer</u>	<u>70,005,301</u>
Total	288,976,222

The City's General Fund debt service for the current year and the next five years, **exclusive** of authorized, but not issued debt and reimbursements for School Construction debt service are:

<u>Fiscal Year</u>	<u>CURRENT Principal and Interest Payments</u>	
	<i>Exclusive of POB</i>	<i>Inclusive of POB</i>
2016 (current)	13,986,992	26,062,327
2017	13,010,434	25,862,097
2018	11,471,029	25,145,881
2019	10,482,155	25,030,036
2020	9,058,512	24,530,909

The five year Capital Improvement Plan calls for approximately \$61 Million in city and school projects supported by City resources including the operating budget, fund balance, and the issuance of general obligation bonds. The following table summarizes the proposed use of local resources in the first year (2016) and the total over the full five years (2016-2020):

<u>Funding Source</u>	<u>FY 2016</u>	<u>FY 2016 – FY 2020</u>
City Bond Issue	14,726,000	61,453,700
City Operating Budget	580,000	3,855,000
Sewer Bond Issue	4,005,000	20,155,000
Sewer Operating Budget	375,000	1,240,000

The following table summarizes the proposed **bond Issues** over the next five years:

<u>Fund</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>Total</u>
City	13,440,000	9,479,700	10,485,000	9,430,000	7,050,000	49,884,700
School	1,140,000	3,040,000	1,385,000	4,715,000	695,000	10,975,000
Public Art	73,000	61,000	57,000	69,000	37,000	297,000
<u>Land Bank</u>	<u>73,000</u>	<u>61,000</u>	<u>57,000</u>	<u>69,000</u>	<u>37,000</u>	<u>297,000</u>
Total General Fund	14,726,000	12,641,700	11,984,000	14,283,000	7,819,000	61,453,700
Sewer Fund	4,005,000	9,820,000	2,255,000	2,130,000	1,945,000	20,155,000

As a result of the funding levels for bonds issues over the next five years, the planned City's General Fund debt service for the next five years, including reimbursements for School debt service and **excluding** pension bonds is estimated to be:

<u>Fiscal Year</u>	<u>PROJECTED</u> <u>Principal and Interest Payments</u>	<u>Net Increase/</u> <u>(Decrease)</u>	<u>Tax Rate</u> <u>Increase/(Decrease)</u>
2016 (current)	13,986,992	9,397	0.00
2017	14,431,204	444,212	0.06
2018	14,267,850	(162,354)	(0.02)
2019	14,561,766	293,916	0.04
2020	14,546,627	(15,140)	(0.00)

Inclusive of pension bonds, the estimates are:

<u>Fiscal Year</u>	<u>PROJECTED</u> <u>Principal and Interest Payments</u>	<u>Net Increase/</u> <u>(Decrease)</u>	<u>Tax Rate</u> <u>Increase/(Decrease)</u>
2016 (current)	26,062,327	737,736	0.10
2017	27,282,867	1,220,540	0.16
2018	27,942,702	659,835	0.08
2019	29,109,647	1,166,945	0.04
2020	30,019,024	909,377	0.11

CIP Discussion

In Fiscal Year 2015 the City authorized approximately \$12.5 Million in General Fund borrowing. The decision to authorize \$12.5 Million in borrowing will result in an increase of approximately \$10,000 for capital debt payments in the upcoming FY2016 operating budget. Including pension bond payment increases, the net increase from FY 2015 borrowing will be approximately \$740,000. The tax rate increase from capital borrowing will be approximately \$0.00 or \$0.10 including the pension bond payment.

The FY2015 five-year planning document estimated \$130 Million in borrowing during the five year planning horizon. This would potentially result in annual increases of upwards of \$1.7 Million from capital alone to the operating budget year-after-year from 2016 to 2020. Increases of that size or borrowing in that amount are unrealistic; setting up false expectations for funding projects when there are not the funds to support the debt payments.

In this year's CIP, approximately half of the 2016 capital budget (\$14.7 Million) proposed for authorization by the City Council is funding for the necessary replacement of the Public Safety Communication System (\$7 Million) which at this point is obsolete and needs to be replaced as an emergency. A portion of the Communication System's debt payments will be shared with South Portland because it is a joint city service as specified in an interlocal agreement. The remaining capital projects are critical to maintaining the City's assets; however, in an effort to minimize the immediate impact to the FY2017 operating budget from borrowing resulting from the FY2016 CIP and to minimize long-term tax rate increases, there were numerous capital maintenance projects that were deferred for later years including over a \$1 Million in vehicle replacements such as snow plows, police cruisers and parking enforcement vehicles. Additionally, needed street repairs and sidewalk repairs were deferred to later years. Street reconstructions were also deferred as well as important projects such as renovating library facilities and making investment to the waterfront.

Even with deferred maintenance as is proposed in the 2016 capital budget, the net increase to the FY2017 operating budget will be approximately \$450,000 from capital or \$1,300,000 from all debt (i.e. Pension Bond). The resulting tax rate increase in FY2017 from committed to FY2015 and projected FY2016 debt payments is estimated to be an increase of approximately \$0.25 per \$1,000 of value on the tax rate from all forms of debt and \$0.06 per \$1,000 of value from capital borrowing alone.

This year's Five-year Capital Improvement Plan presents a capital maintenance funding program that balance maintaining roads, sidewalks, facilities (School and City), parks and open space, as well as the City's vehicle fleet with minimizing the impact from capital expenditure on the operating budget and minimizing potential tax rate increases. **The presented five-year Plan, in years two through five, shows the maximum funding-levels available so as not to increase operating budget expenditure.**

However, it is understood that there are upcoming capital projects of great importance to the community that carry with them significant costs. It is recommended that the Capital Improvement Plan be used as the tool that it is will help the City plan for and analyze future capital expenditures. Just as this year's Communication System Replacement project (\$7 Million estimate) carries with it deferred maintenance City-wide and an increase to the FY2017 operating budget; the preparation of future year capital budgets will also need to make similar choices to balance capital maintenance, community investment, and increases to operating budget expenditures and therefore the tax rate.

Capital projects that will be considered by the community over the next five to ten year will have a significant impact upon the operating budget. There will be a need to balance funding the projects with impact to the operating budget, the tax rate and service impacts. The following is the known list of projects that are of importance to the community (in no particular order):

- Continuing to move Public Services from Bayside (estimated additional \$6 Million¹);
- Elementary School Renovations and Expansions (non-State funded \$51 Million²);
- Congress Square Re-design (estimated \$3.4 Million)³;
- Franklin Street Re-design (estimated \$5 Million)⁴;
- Bayside Transportation Improvements (estimated \$1.5 Million)⁵;
- State and High Streets One-way/Two-way (estimated \$3 Million)⁶;
- Forest Avenue Transportation Improvements (\$3.5 Million)⁷;

In planning for the financial impact of funding these projects, the planning horizon has been extended to 2027 to coincide with the expiration of the pension bonds. A draft capital planning schedule and resulting financial impact to the operating budget and tax rate can be found in Section D on page 29 of this document.

¹ Relocated Public Services from Bayside incorporates the consolidation of city facilities. The sale of the Bayside Public Services properties will somewhat offset the purchase new property and facilities.

² ESTIMATE ONLY

³ ESTIMATE ONLY and final estimated cost contingent on other projects.

⁴ ESTIMATE ONLY

⁵ PROJECT SCOPE UNDEVELOPED, ESTIMATE ONLY

⁶ ESTIMATE ONLY

⁷ PROJECT SCOPE UNDEVELOPED, ESTIMATE ONLY

Needs Assessment

The needs assessment is a summary of the City's capital assets, an evaluation of the replacement value of those assets, and estimate of the annual reinvestment needed to maintain those assets. It can be used as a tool for evaluating investment in the City's capital assets and suggests an average annual funding target for future capital investment.

Asset Inventory

The City provides a wide range of services to the community requiring a diverse range of capital assets. In summary those assets include approximately:

- 82 buildings containing 2.5 million square feet (sf) of occupied space
- 1,075 acres of parks area
- 6.3 million sf of sidewalk area
- 43.2 million sf of road area
- 2 million linear feet of underground pipe
- 683 vehicles

Public Facilities Capital Assets

General Fund Buildings

- 33 City Building totaling approx. 486,138 sf
- 25 School Building totaling approx. 1,632,364 sf
- 9 Fire Building totaling approx. 69,621 sf
- 3 Barron Center Building totaling approx. 117,032 sf
- 3 Parking Garages with 1,585 parking garage spaces

Enterprise Fund Buildings

- 5 Golf Course Buildings totaling approximately 17,068 sf
- 1 Ice Arena Building totaling approximately 42,415 sf
- 2 Library Building totaling approximately 82,900 sf¹

Recreation

- 3 Stadium
- 46 Playing Fields
- 23 Tennis Courts
- 9 Basket Ball Courts
- 3 Swimming Pools
- 3 Skating Pond
- 1 Skate Park
- 25 Playgrounds

Open Space and Cemeteries

- 1,075 acres of park area²
- Fort Gorges
- 9,331 linear feet of sea wall
- 38,400 linear feet of walking path
- Unknown number of tombs

¹ The Library is not an enterprise fund, but is subject to the City's debt limit policy. There are additional library locations; however, these locations are located in other buildings.

² This value does not include the islands.

Vehicles and Equipment Capital Assets

General Fund Vehicles

- 55 Fire Vehicles
- 81 Police Vehicles
- 332 Public Service Vehicles
- 50 Recreation and Facilities Vehicles
- 10 Parking Management Vehicles
- 30 School Vehicles
- 3 Health and Human Services Vehicles
- 8 Barron Center Vehicles
- 8 Miscellaneous City Hall Department Vehicles

Enterprise Fund Vehicles

- 104 Golf Course Vehicles
- 1 Ice Arena Vehicle
- 1 Library Vehicle

General Fund Equipment

- 2,560 square feet of Health and Human Services kitchen space
- 685,957 linear feet of Public Safety data cable
- 3 Public Safety transmission towers
- 7 Public safety communication equipment systems
- 22 Information Technology storage and network devices
- Information Technology network wiring
- 28,000 square feet of School kitchen space
- 125 signalized pedestrian intersections
- 97 streetlight poles
- 9,000 square feet of pier area
- 2 pedestrian piers
- Field Irrigation systems
- Field Lighting systems

Enterprise Fund Equipment

- Golf Course irrigation system
- Ice Arena refrigeration system
- Ice Arena skate sharpener
- Library network and storage devices

Roadways and Sewer System Capital Assets

Roadways

- 6,341,751 square feet of sidewalk area
- 1,006,300 linear feet of curbing
- 14,516,986 square feet of arterial and collector area
- 21,753,143 square feet of local street area

Sewer and Stormwater Enterprise Fund

- 2,034,220 linear feet of underground pipe
- 7,966 sewer manholes
- 6223 catch basins
- 859 sewer and stormwater outfalls
- 10 sewer pump stations

Full Replacement Cost

Keeping all of the City's capital assets in functional and working order requires regular reinvestment. Assuming that the City's entire General Fund asset portfolio required replacement tomorrow, the current replacement value (excluding land value) of those capital assets is estimated to be \$830 Million. Approximately 48% of that value is in infrastructure such as roads and sidewalks, 44% in public facilities and the remaining value in vehicles and equipment.

Assuming that the City's entire Sewer Fund asset portfolio required replacement tomorrow, the current replacement value (excluding land value) of those capital assets is estimated to be \$393 Million.

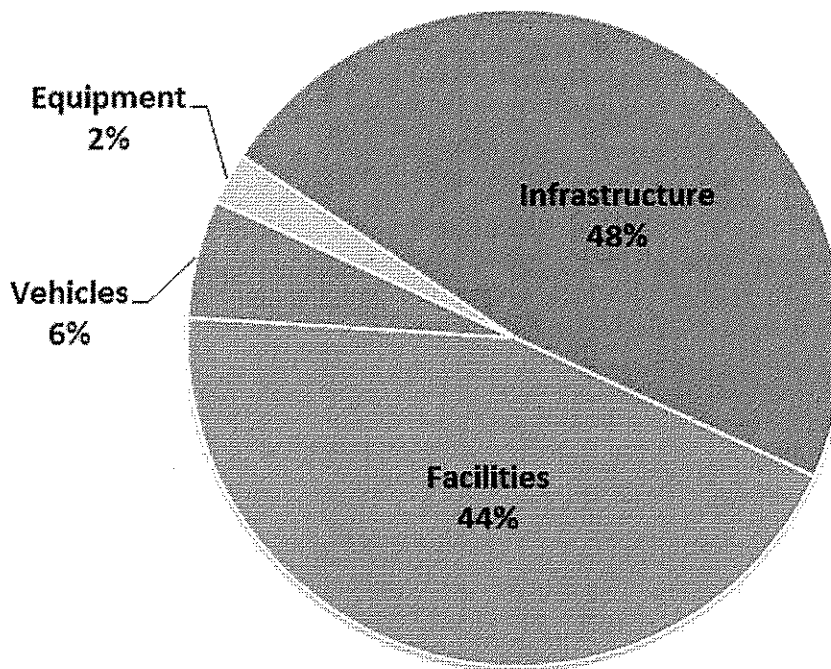


Figure: Full Replacement Cost: General Fund Assets (Approximately \$830,000,000)

Annualized Reinvestment Cost

Assuming regular reinvestment in the City's General Fund capital assets would take place annually through such activities as reconstruction of facilities, repaving of roadways, and replacement of equipment the annualized reinvestment requirement would be approximately \$19 Million.

Given that the estimated lifespan of capital assets varies considerably from asset to asset reinvestment requirements would vary per asset category. Facilities and infrastructure has a much longer estimated lifespan than vehicles; however, given shorter lifespans of some assets and the high cost of replacing those assets, those assets would require a larger proportion of annualized investment requirements.

For example, while vehicles only represented 6% of total replacement value of City assets, maintaining vehicle assets would require 25% of the City's annualized reinvestment.

Assuming regular reinvestment in the City's Sewer Fund capital assets would take place annually through such activities as reconstruction of sewer pipe, catch basins, sewer pump stations, and other sewer and stormwater assets the annualized reinvestment requirement would be approximately \$5.3 Million.

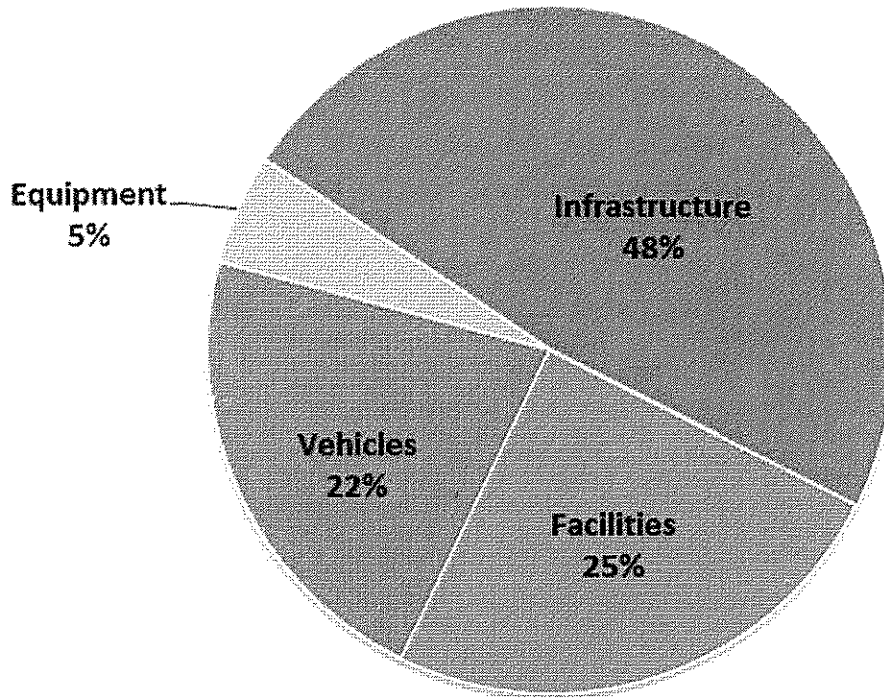
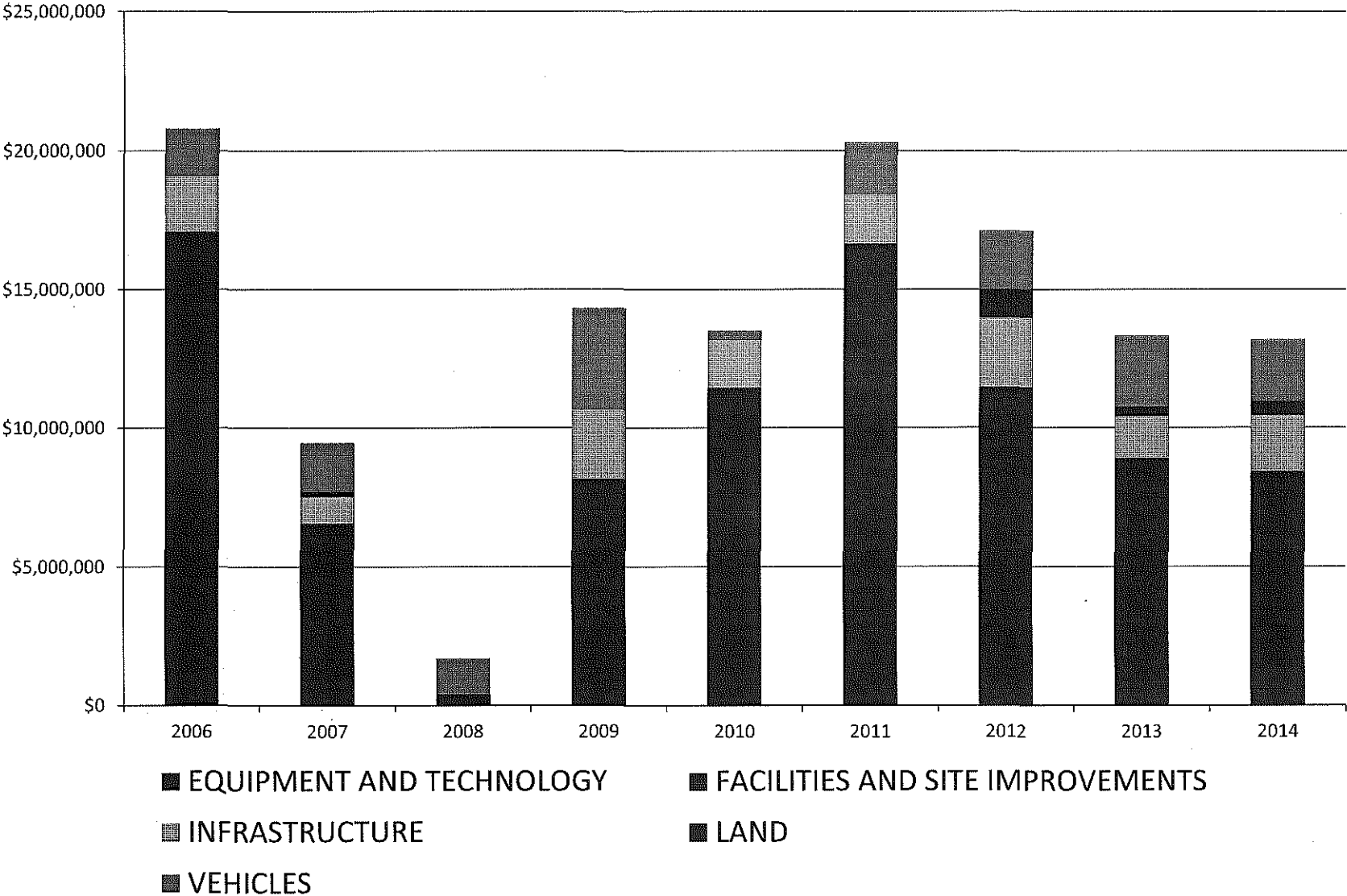


Figure: Annualized Reinvestment Cost: General Fund Assets (Approximately \$19,000,000/year)

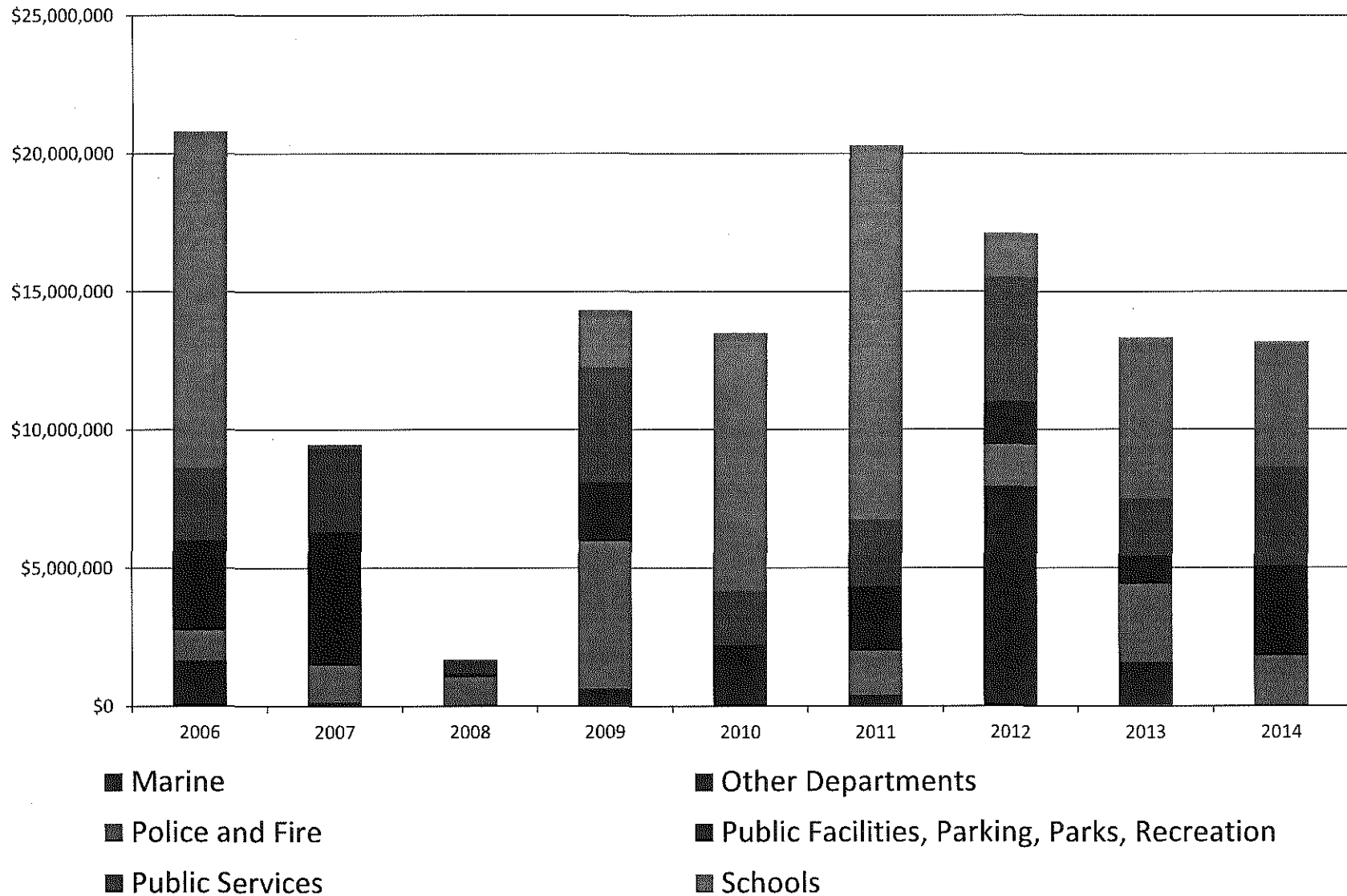
Historic Capital Expenditures

Historic capital expenditures have ranged from approximately \$12 Million to \$30 Million between FY 2006 and FY 2012. On average, expenditure has been approximately \$20 Million per year, roughly corresponding to the estimated annualized reinvestment requirement. This suggests that reinvestment in the City's capital assets has been adequate in aggregate.

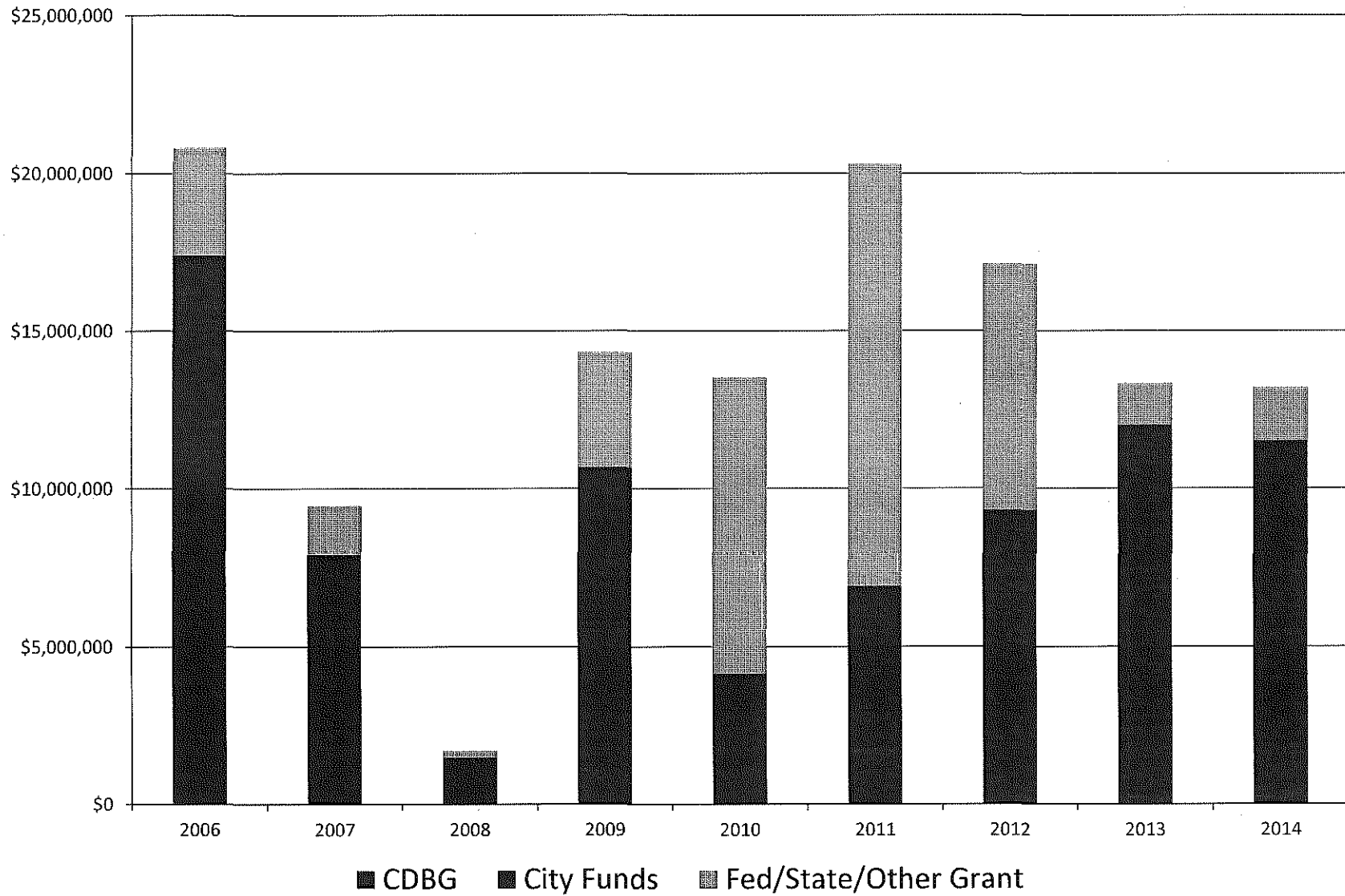
EXPENDED CAPITAL FUNDS



EXPENDED CAPITAL FUNDS



EXPENDED CAPITAL FUNDS



A: FUNDING SUMMARY - GENERAL FUND

	FY15 auth.	FY16	FY17	FY18	FY19	FY20	FY21
Funding Proposed							
Cash							
City	383,000	580,000	1,295,000	935,000	545,000	500,000	
School	-	-	-	-	-	-	
Total General Fund Cash	383,000	580,000	1,295,000	935,000	545,000	500,000	
Borrowing							
City	10,983,000	13,440,000	9,479,700	10,485,000	9,430,000	7,050,000	
School	1,525,000	1,140,000	3,040,000	1,385,000	4,715,000	695,000	
Subtotal General Fund Borrowing	12,508,000	14,580,000	12,519,700	11,870,000	14,145,000	7,745,000	
Public Art	63,000	73,000	61,000	57,000	69,000	37,000	
Land Bank	63,000	73,000	61,000	57,000	69,000	37,000	
Total General Fund Borrowing	12,634,000	14,726,000	12,641,700	11,984,000	14,283,000	7,819,000	
Subtotal - Cash and Borrowing							
City	11,492,000	14,166,000	10,896,700	11,534,000	10,113,000	7,624,000	
School	1,525,000	1,140,000	3,040,000	1,385,000	4,715,000	695,000	
Total General Fund	13,017,000	15,306,000	13,936,700	12,919,000	14,828,000	8,319,000	
Sewer/Stormwater Funds							
Reallocated Bond Proceeds	2,150,000	-	-	-	-	-	
Authorized Tier III CSO LTCP	3,000,000	29,250,000	10,000,000	32,000,000	16,300,000	10,300,000	
Cash	115,000	375,000	240,000	200,000	200,000	225,000	
Borrowing	3,277,000	4,005,000	9,820,000	2,255,000	2,130,000	1,945,000	

A: FUNDING SUMMARY - GENERAL FUND

	FY15 auth.	FY16	FY17	FY18	FY19	FY20	FY21
Valuation (1% est. increase)	7,599,562,660	7,675,558,287	7,752,313,869	7,829,837,008	7,908,135,378	7,987,216,732	8,067,088,899
Current Debt Service							
Current General Fund Debt Service							
City General Obligation	9,981,300	10,295,852	9,373,818	8,545,970	8,079,117	6,909,667	6,314,987
City Loans	123,002	123,002	123,002	123,002	123,002	123,002	123,002
School General Obligation	5,558,364	5,228,302	4,814,125	4,110,377	3,549,514	3,260,566	3,108,376
School Capital Leases	186,843	93,086	46,996	4,180	4,319	-	-
Total GF (Non-POB) Debt Service	15,849,509	15,740,242	14,357,941	12,783,529	11,755,952	10,293,234	9,546,365
Pen. Obligation Bond - City	9,985,356	10,626,295	11,309,463	12,033,870	12,802,135	13,615,710	14,474,866
Pen. Obligation Bond - School	1,361,640	1,449,040	1,542,200	1,640,982	1,745,746	1,856,688	1,973,845
Total POB Debt Service	11,346,996	12,075,335	12,851,663	13,674,852	14,547,881	15,472,397	16,448,711
Total Current GF Debt Service	27,196,505	27,815,577	27,209,604	26,458,381	26,303,833	25,765,632	25,995,076
Authorized, Not Borrowed--est. debt service							
Public Services Canco Road			274,500	268,401	262,302	256,203	250,100
Capisic Pond (CIP 2015)			53,675	52,404	51,133	49,861	48,590
Other (CIP 2015)			38,000	37,100	36,200	35,300	34,400
Total Authorized, Not Borrowed--est. debt service	-	-	366,175	357,905	349,635	341,364	333,090
Less State reimbursed School Debt Service (est)	(1,871,914)	(1,753,250)	(1,713,682)	(1,670,405)	(1,623,432)	(1,576,087)	(1,527,410)
Current GF Debt Service Est.	25,324,591	26,062,327	25,862,097	25,145,881	25,030,036	24,530,909	24,800,756
increase from prior year	1,409,049	737,736	(200,230)	(716,216)	(115,845)	(499,126)	269,847
Current GF Debt Service Est. (less POB)	13,977,595	13,986,992	13,010,434	11,471,029	10,482,155	9,058,512	8,352,045
increase from prior year	718,048	9,397	(976,558)	(1,539,405)	(988,874)	(1,423,643)	(706,467)
Current Debt Service Available		(737,736)	(537,506)	178,710	294,555	793,682	523,835
Current FY15 Comparative Est. Tax Rate Increase from	-	0.10	0.07	(0.02)	(0.04)	(0.10)	(0.06)
Projected Debt Service							
Projected New Issue Debt Service--est. debt service							
City			1,297,970	2,383,939	3,545,302	4,518,435	5,205,612
School			122,800	412,883	534,310	969,680	986,948
General Fund--est. debt service			1,420,770	2,796,822	4,079,612	5,488,115	6,192,559
Projected GF Debt Service Est.	25,324,591	26,062,327	27,282,867	27,942,702	29,109,647	30,019,024	30,993,315
increase from prior year	1,409,049	737,736	1,220,540	659,835	1,166,945	909,377	974,291
Projected GF Debt Service Est. (less POB)	13,977,595	13,986,992	14,431,204	14,267,850	14,561,766	14,546,627	14,544,604
increase from prior year	718,048	9,397	444,212	(163,354)	293,916	(15,140)	(2,022)
Projected Debt Service Available		(737,736)	(1,958,276)	(2,618,112)	(3,785,057)	(4,694,433)	(5,668,725)
Proj FY15 Comparative Est. Tax Rate Increase	-	0.10	0.25	0.33	0.48	0.59	0.70
Proj Est. Tax Rate Increase from Prior Year GF Debt		0.10	0.16	0.08	0.15	0.11	0.12
Proj Est. Tax Rate Increase from Prior Year Capital Borrowing		0.00	0.06	(0.02)	0.04	(0.00)	(0.00)

B. RECOMMENDED 2016 CAPITAL PROJECTS - GENERAL FUND CASH

Facilities

Buildings/Garages

Peaks Island Exhaust Removal System	30,000
-------------------------------------	--------

<i>Buildings/Garages Total</i>	<i>30,000</i>
--------------------------------	---------------

Facilities Total	30,000
-------------------------	---------------

Parks, Fields, Trails

Parks, Fields, Trails

Western Promenade Walkways	50,000
----------------------------	--------

Complete Dead House Restoration	20,000
---------------------------------	--------

<i>Parks, Fields, Trails Total</i>	<i>70,000</i>
------------------------------------	---------------

Parks, Fields, Trails Total	70,000
------------------------------------	---------------

Equipment and Vehicles

Equipment

Phonemail System Replacement	45,000
------------------------------	--------

Ticket Dispensers at Spring Street Parking Garage	45,000
---	--------

Virtualization, Storage and Redundancy Upgrade	65,000
--	--------

Ticket Dispenser at Elm Street Parking Garage	15,000
---	--------

<i>Equipment Total</i>	<i>170,000</i>
------------------------	----------------

Vehicles

1/2 Ton Pickup Replacement - Playgrounds 2188	40,000
---	--------

Replace 1 Ton Stake Body - 4970 School Maintenance	50,000
--	--------

3/4 Ton Pickup Replacement - Solid Waste 2033	25,000
---	--------

Staff Car Replacement - Fire	40,000
------------------------------	--------

Replace Pickup Riverside Golf 2017	30,000
------------------------------------	--------

1/2 Ton Pickup Replacement - Trades 2084	25,000
--	--------

Compact Pickup Replacement - Barron Center 2209	20,000
---	--------

Replace Parking Enforcement Truck 2154	25,000
--	--------

1/2 Ton Truck Replacement - Forestry 2038	30,000
---	--------

Solid Waste Inspections Pickup Replacement - Solid Waste 2155	25,000
---	--------

<i>Vehicles Total</i>	<i>310,000</i>
-----------------------	----------------

Equipment and Vehicles Total	480,000
-------------------------------------	----------------

GENERAL FUND CASH TOTAL	580,000
--------------------------------	----------------

B. 2016 CAPITAL PROJECTS - GENERAL FUND FINANCED

Transportation

PACTS/Match

PACTS Regional Transportation Management Systems (RTMS) - Traffic Signals	100,000
---	---------

<i>PACTS/Match Total</i>	<i>100,000</i>
--------------------------	----------------

Streets/Sidewalks

Paving Preservation and Rehabilitation	1,000,000
--	-----------

Sidewalk Rehabilitation/Accessibility	500,000
---------------------------------------	---------

<i>Streets/Sidewalks Total</i>	<i>1,500,000</i>
--------------------------------	------------------

Transportation Total	1,600,000
-----------------------------	------------------

Facilities

Buildings/Garages

Fire Alarm & Sprinkler Systems at all Fire Stations	75,000
---	--------

Waterproof Decking Recoat at Temple Street Parking Garage	305,000
---	---------

Ultra Violet Water Treatment System at Riverton Pool	50,000
--	--------

Passenger Elevator at City Hall	100,000
---------------------------------	---------

Seating at Hadlock Field	190,000
--------------------------	---------

Bleachers at Ice Arena	100,000
------------------------	---------

Roof Deck at Spring Street Parking Garage	500,000
---	---------

Library Roof Section	25,000
----------------------	--------

<i>Buildings/Garages Total</i>	<i>1,345,000</i>
--------------------------------	------------------

Marine

Compass Park Pier Stabilization	30,000
---------------------------------	--------

Piles at Portland Ocean Terminal	280,000
----------------------------------	---------

Steel Piles at Ocean Gateway Pier (engineering)	100,000
---	---------

<i>Marine Total</i>	<i>410,000</i>
---------------------	----------------

Schools

PATHS Paving	450,000
--------------	---------

Fire Alarm System at Portland High School	150,000
---	---------

Windows at Deering High School	250,000
--------------------------------	---------

Oil Tanks Removal at Various School Buildings	100,000
---	---------

<i>Schools Total</i>	<i>950,000</i>
----------------------	----------------

Facilities Total	2,705,000
-------------------------	------------------

B. 2016 CAPITAL PROJECTS - GENERAL FUND FINANCED

Parks, Fields, Trails

Parks, Fields, Trails

Payson Park Softball Field "A" - Amenity and Field Upgrades	200,000
Lyman Moore Sports Complex	275,000
Capisic Pond Improvements	565,000
Golf Course Rehabilitation	100,000

Parks, Fields, Trails Total 1,140,000

Parks, Fields, Trails Total 1,140,000

Equipment and Vehicles

Equipment

Communication System Replacement	7,000,000
----------------------------------	-----------

Equipment Total 7,000,000

Vehicles

30 Passenger Bus - School	50,000
Full Size Bus - School	90,000
7 Passenger Van - School	50,000
Medcu Ambulance Replacement - Fire	265,000
Police Cruisers (4) Replacement - Police	160,000
Ladder 1 Replacement - Fire	1,300,000
Bucket Truck Replacement - Forestry 5098	220,000

Vehicles Total 2,135,000

Equipment and Vehicles Total 9,135,000

GENERAL FUND FINANCED TOTAL 14,580,000

Public Art	73,000
Land Bank	73,000

GENERAL FUND FINANCED TOTAL 14,726,000

B. RECOMMENDED 2016 CAPITAL PROJECTS - SEWER FUND CASH

Equipment and Vehicles

Equipment

Wastewater Server	50,000
-------------------	--------

<i>Equipment Total</i>	<i>50,000</i>
------------------------	---------------

Vehicles

3/4 Ton Extended Cab Pickup Replacement - Sewer 2513	40,000
--	--------

<i>Vehicles Total</i>	<i>40,000</i>
-----------------------	---------------

Equipment and Vehicles Total	90,000
-------------------------------------	---------------

Stormwater

Stormwater

Neighborhood Stormwater Drainage	200,000
----------------------------------	---------

Greenleaf Street Stormwater Facilities	85,000
--	--------

<i>Stormwater Total</i>	<i>285,000</i>
-------------------------	----------------

Stormwater Total	285,000
-------------------------	----------------

SEWER FUND CASH TOTAL	375,000
------------------------------	----------------

B. 2016 CAPITAL PROJECTS - SEWER FUND FINANCED***Buildings/Garages***

Water Resource Relocation	250,000
---------------------------	---------

Buildings/Garages Total	250,000
--------------------------------	----------------

Parks, Fields, Trails

Capisc Pond Improvements	560,000
--------------------------	---------

Parks, Fields, Trails Total	560,000
------------------------------------	----------------

Sewer

CMOM - Sewer System Renewal	1,100,000
-----------------------------	-----------

CMOM - Pump Station Rehabilitation	670,000
------------------------------------	---------

Rowe Avenue Sewer Separation	210,000
------------------------------	---------

Sewer Total	1,980,000
--------------------	------------------

Stormwater

Stormwater Storage and Filtration Systems at Sagamore Village (Engineering)	120,000
---	---------

Gravel Wetland Stormwater Treatment System in the Capisc Brook Watershed (Engineering)	175,000
---	---------

Stormwater Total	295,000
-------------------------	----------------

Vehicles

Dump Truck Replacement - Public Services 3112	165,000
---	---------

Dump Truck Replacement - Sewer 3110	165,000
-------------------------------------	---------

Street Sweepers Replacement	175,000
-----------------------------	---------

CCTV Truck - NEW	415,000
------------------	---------

Vehicles Total	920,000
-----------------------	----------------

SEWER FUND FINANCED TOTAL	4,005,000
----------------------------------	------------------

C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - GENERAL FUND

	2016	2017	2018	2019	2020
<i>Transportation</i>					
PACTS/Match					
- MaineDOT Arterial Paving Riverside St (Brighton Av to Home Depot entrance) - ineligibles/system upgrades	-	-	-	-	-
- PACTS Regional Transportation Management Systems (RTMS) - Traffic Signals	100,000	100,000	100,000	100,000	-
- PACTS/Match GENERAL	-	1,974,700	3,075,000	320,000	-
<i>PACTS/Match Total</i>	100,000	2,074,700	3,175,000	420,000	-
Streets/Sidewalks					
- Paving Preservation and Rehabilitation	1,000,000	1,500,000	1,500,000	1,750,000	1,500,000
- Street Reconstruction	-	500,000	500,000	500,000	500,000
- Sidewalk Rehabilitation/Accessibility	500,000	700,000	850,000	850,000	850,000
- Streets/Sidewalks GENERAL	-	50,000	500,000	250,000	280,000
<i>Streets/Sidewalks Total</i>	1,500,000	2,750,000	3,350,000	3,350,000	3,130,000
Traffic/Streetlights					
- Traffic/Streetlights GENERAL	-	790,000	400,000	445,000	830,000
<i>Traffic/Streetlights Total</i>	-	790,000	400,000	445,000	830,000
Transportation Total	1,600,000	5,614,700	6,925,000	4,215,000	3,960,000

C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - GENERAL FUND

	2016	2017	2018	2019	2020
<i>Facilities</i>					
<i>Buildings/Garages</i>					
- Ultra Violet Water Treatment System at Riverton Pool	50,000	-	-	-	-
- Roof Deck at Spring Street Parking Garage	500,000	720,000	-	-	-
- Bleachers at Ice Arena	100,000	-	-	-	-
- Fire Alarm & Sprinkler Systems at all Fire Stations	75,000	-	-	-	-
- Seating at Hadlock Field	190,000	-	-	-	-
- Library Roof Section	25,000	-	-	-	-
- Waterproof Decking Recoat at Temple Street Parking Garage	305,000	-	-	-	-
- Passenger Elevator at City Hall	100,000	-	-	-	-
- Peaks Island Exhaust Removal System	30,000	-	-	-	-
- Buildings/Garages GENERAL	-	1,105,000	915,000	2,000,000	1,150,000
<i>Buildings/Garages Total</i>	<i>1,375,000</i>	<i>1,825,000</i>	<i>915,000</i>	<i>2,000,000</i>	<i>1,150,000</i>
<i>Marine</i>					
- Compass Park Pier Stabilization	30,000	350,000	-	-	-
- Steel Piles at Ocean Gateway Pier (engineering)	100,000	400,000	500,000	500,000	-
- Piles at Portland Ocean Terminal	280,000	-	-	-	-
- Marine GENERAL	-	-	-	325,000	155,000
<i>Marine Total</i>	<i>410,000</i>	<i>750,000</i>	<i>500,000</i>	<i>825,000</i>	<i>155,000</i>
<i>Schools</i>					
- Windows at Deering High School	250,000	250,000	250,000	-	-
- Fire Alarm System at Portland High School	150,000	-	-	-	-
- Hall School Replacement (Engineering)	-	500,000	-	-	-
- Oil Tanks Removal at Various School Buildings	100,000	100,000	-	-	-
- PATHS Paving	450,000	-	-	-	-
- Schools GENERAL	-	2,100,000	1,000,000	4,580,000	560,000
<i>Schools Total</i>	<i>950,000</i>	<i>2,950,000</i>	<i>1,250,000</i>	<i>4,580,000</i>	<i>560,000</i>
Facilities Total	2,735,000	5,525,000	2,665,000	7,405,000	1,865,000

C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - GENERAL FUND

	2016	2017	2018	2019	2020
<i>Parks, Fields, Trails</i>					
Parks, Fields, Trails					
- Complete Dead House Restoration	20,000	-	-	-	-
- Capisic Pond Improvements	565,000	-	-	-	-
- Western Promenade Walkways	50,000	-	-	-	-
- Golf Course Rehabilitation	100,000	100,000	100,000	100,000	100,000
- Lyman Moore Sports Complex	275,000	-	-	-	-
- Payson Park Softball Field "A" - Amenity and Field Upgrades	200,000	-	-	-	-
- Parks, Fields, Trails GENERAL	-	250,000	735,000	1,395,000	745,000
<i>Parks, Fields, Trails Total</i>	<i>1,210,000</i>	<i>350,000</i>	<i>835,000</i>	<i>1,495,000</i>	<i>845,000</i>
Parks, Fields, Trails Total	1,210,000	350,000	835,000	1,495,000	845,000
<i>Equipment and Vehicles</i>					
Equipment					
- Ticket Dispensers at Spring Street Parking Garage	45,000	-	-	-	-
- Communication System Replacement	7,000,000	-	-	-	-
- Virtualization, Storage and Redundancy Upgrade	65,000	75,000	55,000	-	-
- Phonemail System Replacement	45,000	-	-	-	-
- Ticket Dispenser at Elm Street Parking Garage	15,000	-	-	-	-
- Equipment GENERAL	-	720,000	605,000	-	-
<i>Equipment Total</i>	<i>7,170,000</i>	<i>795,000</i>	<i>660,000</i>	<i>-</i>	<i>-</i>

C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - GENERAL FUND

	2016	2017	2018	2019	2020
Vehicles					
- 7 Passenger Van - School	50,000	-	-	-	-
- Rubbish Packer Replacement	-	265,000	265,000	265,000	265,000
- 1/2 Ton Pickup Replacement - Trades 2084	25,000	-	-	-	-
- Medcu Ambulance Replacement - Fire	265,000	265,000	265,000	265,000	265,000
- 1/2 Ton Truck Replacement - Forestry 2038	30,000	-	-	-	-
- Solid Waste Inspections Pickup Replacement - Solid Waste 2155	25,000	-	-	-	-
- 3/4 Ton Pickup Replacement - Solid Waste 2033	25,000	-	-	-	-
- Vehicle Replacement GENERAL	-	500,000	500,000	500,000	500,000
- 30 Passenger Bus - School	50,000	-	-	-	-
- Replace 1 Ton Stake Body - 4970 School Maintenance	50,000	-	-	-	-
- Replace Parking Enforcement Truck 2154	25,000	-	-	-	-
- Replace Pickup Riverside Golf 2017	30,000	-	-	-	-
- Sidewalk Tractors Replacement	-	145,000	290,000	145,000	145,000
- Bucket Truck Replacement - Forestry 5098	220,000	-	-	-	-
- Staff Car Replacement - Fire	40,000	-	-	-	-
- Compact Pickup Replacement - Barron Center 2209	20,000	-	-	-	-
- Police Cruisers (4) Replacement - Police	160,000	265,000	265,000	265,000	265,000
- Full Size Bus - School	90,000	90,000	135,000	135,000	135,000
- 1/2 Ton Pickup Replacement - Playgrounds 2188	40,000	-	-	-	-
- Ladder 1 Replacement - Fire	1,300,000	-	-	-	-
<i>Vehicles Total</i>	<i>2,445,000</i>	<i>1,530,000</i>	<i>1,720,000</i>	<i>1,575,000</i>	<i>1,575,000</i>
Equipment and Vehicles Total	9,615,000	2,325,000	2,380,000	1,575,000	1,575,000
General Fund Capital Funding Total	15,160,000	13,814,700	12,805,000	14,690,000	8,245,000
Public Art	73,000	61,000	57,000	69,000	37,000
Land Bank	73,000	61,000	57,000	69,000	37,000
General Fund Capital Funding Grand Total	15,306,000	13,936,700	12,919,000	14,828,000	8,319,000

C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - SEWER FUND

	2016	2017	2018	2019	2020
Buildings/Garages					
Water Resource Relocation	250,000	-	-	-	-
Buildings/Garages Total	250,000	-	-	-	-
Equipment					
Wastewater Server	50,000	-	-	-	-
Equipment Total	50,000	-	-	-	-
Sewer					
CMOM - Pump Station Rehabilitation	670,000	1,100,000	670,000	670,000	670,000
CMOM - Sewer System Renewal	1,100,000	1,100,000	1,100,000	1,100,000	1,100,000
Sewer Replacement - Somerset Street Extension	-	300,000	-	-	-
USM Roundabout Sewer Separation	-	400,000	-	-	-
Rowe Avenue Sewer Separation	210,000	-	-	-	-
Sewer Total	1,980,000	2,900,000	1,770,000	1,770,000	1,770,000
Stormwater					
Neighborhood Stormwater Drainage	200,000	200,000	200,000	200,000	200,000
Stormwater Retrofits on Riverside Street	-	-	-	185,000	-
Canco Road Storm Drain	-	580,000	-	-	-
Warren Ave Storm Drain - 517 Warren Ave to 659 Warren Ave	-	750,000	-	-	-
Greenleaf Street Stormwater Facilities	85,000	-	-	-	-
Stormwater Storage and Filtration Systems at Sagamore Village (Engineering)	120,000	1,245,000	-	-	-
Gravel Wetland Stormwater Treatment System in the Capisic Brook Watershed (Engineering)	175,000	2,000,000	-	-	-
Stormwater Total	580,000	4,775,000	200,000	385,000	200,000

C. RECOMMENDED CAPITAL IMPROVEMENT PLAN - SEWER FUND

	2016	2017	2018	2019	2020
Vehicles					
Replace Stormwater Staff Car	-	-	-	-	25,000
Street Sweepers Replacement	175,000	175,000	235,000	175,000	175,000
TV Truck Replacement - Sewer 2516	-	-	250,000	-	-
1 Ton Crew Cab Pickup Replacement - Sewer 2511	-	40,000	-	-	-
3/4 Ton Extended Cab Pickup Replacement - Sewer 2513	40,000	-	-	-	-
Dump Truck Replacement - Sewer 3110	165,000	-	-	-	-
Dump Truck Replacement - Public Services 3112	165,000	-	-	-	-
Catch Basin Cleaning Vehicle Replacement - Sewer 3127	-	170,000	-	-	-
CCTV Truck - NEW	415,000	-	-	-	-
Vehicles Total	960,000	385,000	485,000	175,000	200,000
Parks, Fields, Trails					
Capisic Pond Improvements	560,000	-	-	-	-
Parks, Fields, Trails Total	560,000	-	-	-	-
CSO					
CSO - Close CSO #42 and #43	-	2,000,000	-	-	-
CSO Total	-	2,000,000	-	-	-
Grand Total	4,380,000	10,060,000	2,455,000	2,330,000	2,170,000

D. DEBT STRATEGY - CAPITAL PROJECT PLANNING WORKSHEET - GENERAL FUND

	FY15 auth.	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27
Funding Proposed													
Capital Maintenance Borrowing	12,634,000	13,716,000	12,641,700	11,984,000	14,283,000	7,819,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000
Projected GF Debt Service Est.	25,324,591	26,062,327	27,282,867	27,942,702	29,109,647	30,019,024	30,993,315	32,361,784	33,571,739	34,801,913	36,138,197	37,292,809	14,994,495
increase from prior year	1,682,449	737,736	1,220,540	659,835	1,166,945	909,377	974,291	1,368,469	1,208,954	1,230,175	1,336,284	1,154,612	(22,298,314)
Projected GF Debt Service Est. (less POB)	13,977,595	13,986,992	14,431,204	14,267,850	14,561,766	14,546,527	14,544,604	14,875,989	14,986,339	15,049,420	15,148,380	14,994,920	14,994,495
increase from prior year	991,448	9,397	444,212	(163,354)	293,916	(15,140)	(2,022)	331,385	110,349	63,082	98,960	(153,460)	(425)
Projected Debt Service Available	-	(737,736)	(1,958,276)	(2,618,112)	(3,785,057)	(4,694,433)	(5,668,725)	(7,037,194)	(8,247,146)	(9,477,323)	(10,813,606)	(11,968,216)	10,330,096
Projected FY15 Comparative Est. Tax Rate Increase	0.10	0.25	0.31	0.47	0.53	0.70	0.85	0.95	1.13	1.28	1.40	1.29	(1.29)
Potential CIP Major Project	SELECT YEAR												
Elementary Schools	18	-	-	11,257,319	15,339,060	12,337,789	12,183,505	-	-	-	-	-	-
Public Services Relocation	17	-	6,000,000	-	-	-	-	-	-	-	-	-	-
Congress Square Re-Design	24	-	-	-	-	-	-	-	-	2,000,000	1,370,000	-	-
Franklin Street Redesign	23	-	-	-	-	-	-	-	500,000	4,500,000	-	-	-
Libbytown	22	-	-	-	-	-	-	600,000	500,000	-	-	-	-
Spring Street	25	-	-	-	-	-	-	-	-	-	2,000,000	1,500,000	-
Bayside Transportation	25	-	-	-	-	-	-	-	-	-	500,000	2,000,000	1,000,000
State St & High St	25	-	-	-	-	-	-	-	-	-	1,500,000	1,500,000	-
Forest Avenue	21	-	-	-	-	-	500,000	2,000,000	500,000	500,000	-	-	-
Total Potential Projects			6,000,000	11,257,319	15,339,060	12,337,789	12,683,505	2,600,000	1,500,000	7,000,000	5,370,000	5,000,000	1,000,000
Potential GF Debt Service Est.	25,324,591	26,062,327	27,282,867	28,512,702	30,722,093	32,999,193	34,968,694	37,329,954	38,514,579	39,716,664	41,555,458	42,939,605	20,840,851
increase from prior year	1,682,449	737,736	1,220,540	1,229,835	2,209,390	2,277,101	1,969,501	2,361,260	1,184,625	1,202,085	1,838,794	1,384,147	(22,098,754)
Potential GF Debt Service Est. (le:	13,977,595	13,986,992	14,431,204	14,837,850	16,174,212	17,526,796	18,519,983	19,844,159	19,929,179	19,964,171	20,565,641	20,641,716	20,840,851
increase from prior year	991,448	9,397	444,212	406,646	1,336,361	1,352,584	993,187	1,324,176	85,020	34,992	601,470	76,075	199,135
Potential Debt Service Available	-	(737,736)	(1,958,276)	(3,188,112)	(5,397,502)	(7,674,602)	(9,644,103)	(12,005,363)	(13,189,988)	(14,392,073)	(16,230,867)	(17,615,014)	4,483,740
FY15 Comparative Est. Tax Rate Increase (m	0.10	0.25	0.40	0.68	0.95	1.19	1.46	1.59	1.72	1.92	2.06	(0.52)	
Comparative Tax Rate Increase (% from \$20 per 1,000 of value)	0.5%	1.3%	2.0%	3.4%	4.8%	5.9%	7.3%	7.9%	8.6%	10.3%	10.3%	-2.6%	
Prior Year Est. Tax Rate Increase (mil rate)	0.10	0.16	0.16	0.28	0.28	0.24	0.29	0.14	0.14	0.22	0.16	(2.56)	
Project Tax Rate Increase (mil rate)			0.07	0.20	0.37	0.49	0.60	0.60	0.59	0.64	0.66	0.68	



To: Finance Committee

From: Ian Houseal, Assistant to the City Manager

Date: February 24, 2015

RE: Capital Improvement Plan 2016

Please see the attached material regarding questions and information requested at the February 12, 2015 meeting by the Finance Committee with regard to the 2016 Capital Improvement Plan:

1. Provide a copy of the debt management policy (attached)
2. Provide a copy of the debt management policy indicators as presented in the 2015 CIP (attached)
3. Provide historic increases in the tax rate from capital borrowing (attached)
4. Add percentages (provided on workshop working document)
5. Provide more detail on the following projects:
 - a. Capisic Pond with regard to cost share between Enterprise Fund and General Fund (project update and response attached)
 - b. Public Safety Communication System (see update and attached legal opinion on referendum and discussion of options, cost-share, and shared service)
 - c. Relocating Public Services from Bayside
 - d. Ladder 1 replacement (attached)
 - e. Other projects that would influence long-term capital planning (see attached memo provided as a Plan and CIP consistency document from 2013 CIP)

**City of Portland, Maine
Debt Management Policy**

Policy Statement

The City borrows money to finance its Capital Improvement Program and other capital assets. It also borrows money to fund workers' compensation settlements, loan programs, non-recurring extraordinary circumstances (such as funding pension obligations) and economic development activities. The City's ability to achieve the lowest possible financing costs is tied directly to its fiscal management, including the existence and adherence to formal fiscal policies. Because of the significant annual cost of debt service, and to assure both taxpayers and bond rating agencies that debt levels and ability to pay debt service are actively managed, the City of Portland adopts this policy.

Purpose

The purpose of this policy is to provide the City with a guide to manage debt levels by evaluating the need for capital investment against the capacity to pay for financing the costs of meeting that need. The primary focus of this policy is to measure debt secured by the full faith and credit of the City (general obligation, or GO), for which the debt service is supported. The goal of this policy is to equip the City Council, administration, and taxpayers with guidelines and information that can inform good decisions on borrowing money to accomplish the fiscal and operational mission of the City.

The City currently has limited instances of debt issuance that is not supported by taxes. The Jetport issues debt that is secured solely by the revenues generated by the Jetport operations. These types of borrowings are not covered by this policy, as they are analyzed using commercially-based methods, such as debt service coverage ratios and other financial covenants.

The City also has instances of debt requirements that, while ultimately backed by a GO pledge of the City, is by its nature self-supporting through user fees or other non-tax sources of revenue.

Governing Factors

The City shall maintain an outstanding GO debt total that complies with State law, which currently limits long-term debt outstanding to 15% of the State assessed valuation of the City. The City Charter describes conditions that require a referendum vote to borrow funds. It also contains the conditions under which financing can be used. Issuance of General Obligation debt requires affirmative votes of seven members of the City Council.

It is understood, and imperative, that the School Department capital investment financing is included in this policy, as it is also GO debt of the City and debt service is supported by tax dollars. All

calculations within this policy will also include debt service that is all or partially reimbursed, such as State School Funding.

The City shall not issue debt to fund current or ongoing operations of the City or Schools, except in the form of Tax Anticipation Notes (TANs) when applicable; in compliance with State law and in conformance with Internal Revenue Service (IRS) regulations.

The City shall not lend its borrowing capacity to or guarantee debt of any other entity.

Maturity of debt obligations must be no more than the useful life of the capital investment being financed, or than the final maturity of refunded debt; pursuant to Maine law which may not exceed 30 years from issuance.

Refunding opportunities will be evaluated annually to achieve future interest cost savings.

Rules of borrowing and this Policy also cover lease purchases, as they are secured by the general obligation of the City.

Debt Limitations

The City's Capital Improvement Program is based on a Capital Plan . This Plan includes projections for replacement of assets as well as anticipating investment in new assets that may be needed. The Plan is expected to be updated periodically to reflect additions, deletions and other changes in assets or circumstances. It is expected that investment in operating equipment, fleet and technology will be transitioned such that acquisitions will be made through annual budget appropriations when applicable, as determined by management and City Council.

Borrowing capacity will be evaluated first by the Governing Principles, and then using a number of factors, specifically:

1. *Demand*—what is the need for borrowing
 - a. Demand is measured by the needs presented by the Capital Plan. It can also be based on opportunities that arise from time to time which require capital investment by the City.
2. *Capacity*—what is the maximum amount to borrow
 - a. The maximum amount to be borrowed at any given time will be determined by evaluating the following factors:
 1. Current and projected annual debt service level, based on current outstanding debt.
 2. Market conditions (ability to access the financing market, interest rates, etc.).
 3. Economic conditions, including cost of construction.

4. Opportunity for participation in low interest financing programs, debt service reimbursement, grant opportunities, or other situations beneficial to the City.
3. *Affordability*—what is the fiscal impact
 - a. A projection of annual debt service impact for each borrowing will be done, incorporating the elements of Capacity. It will include budgetary impact, as well as a projection of tax impact. Debt service will be calculated as annual amount needed to satisfy principal and interest payments, net of any applicable revenue.
 1. Net debt service* payments should not exceed 15% of general fund expenditures.
 2. Net debt service payments should not exceed 1.5% of per capita income.**
 3. Debt per capita should not exceed the “moderate” range by Moody’s, currently at \$5,000.
 4. Total outstanding debt should not exceed 5% of the State equalized valuation of the City.
4. *Term*—length of payback period
 - a. Financing shall be secured with the goal of paying back the debt in the shortest term that is economically feasible.
5. *Payment Structure*—how payments are applied
 - a. Payments will be structured with level principal and declining interest over the life of the debt, except
 - b. In instances where level debt service payments offer economic benefit, such as for rate stabilization.
6. *Advance Refundings*— bond issuance used to pay off another outstanding bond, issued at a lower rate
 - a. Opportunities for advance refunding will be reviewed when issuing other GO bonds in order to package issues.
 - b. Opportunities for advance refunding will be considered independently for issues where the net savings, after costs of issuance, is estimated to be at least \$50,000 annually for the new financing period.

Pension Obligation Bonds (POB’s)

In 2002, the city refinanced its unfunded pension liability with the Maine State Retirement system through Variable Rate Demand Obligation (VRDO) financing. This saves an estimated \$21 million in interest costs over the 25 year term.

The VRDO structure bears interest at a floating rate that is adjusted at specified intervals (daily, weekly, monthly) and can be redeemed at the holder’s option when the rate changes. This structure requires a Standby Bond Purchase Agreement (SBPA), and is managed by a remarketing agent.

While this financing offered the City significant savings, it is the goal of the City to refinance this obligation into a more standard and predictable debt. However, refinancing of this type of debt is

costly to do because of the buyout requirements. The Finance Director will periodically review the status of the cost of buyout and refinancing, and pursue any reasonable opportunity.

Bond Ratings

Debt issuance is rated by agencies specializing in the analysis of organizations' ability to pay off their debt. The City is rated for each bond issue, and also during an annual affirmation of ratings. As of 2011, the City is rated AA by Standard & Poor's and Aa1 by Moody's.

It is the goal of the City to maintain these ratings, as it allows easy entry into the bond sale market and favorable interest rates. This policy, in conjunction with other fiscal policies of the City and overall good fiscal management are critical in rating maintenance.

Debt Issuance

The City relies on the sale of bonds for the majority of its financing needs. These sales are conducted through the use of a financial advisory firm and recognized bond counsel. This allows the City continued access to the bond market and ensures compliance with all Securities and Exchange Commission (SEC), Municipal Securities Rulemaking Board (MSRB) and IRS regulations. The City may also enter into lease purchase agreements if it is determined to be cost effective.

Each issuance of general obligation debt will be evaluated to determine compliance with this policy, and that information will be submitted to the City Council as they deliberate actions on financing approvals.

Reporting

The City's debt information is part of the Comprehensive Annual Financial Report (CAFR). Annual debt service requirements are budgeted as part of the annual budget approval process. Bond ratings received by rating agencies are published and available for public review.

The City Council will receive an annual report on the overall debt status of the City. This will include a specific discussion on the status of the Pension Obligation Bonds.

The City is required to provide certain information to investors periodically and financial information annually. This information is filed through the Electronic Municipal Market Access system (EMMA), provided by the MSRB.

Administration

This Policy is for use in guiding financing decisions of the City, and can be interpreted by the City Council as part of overall discussions related to debt issuance. It is administered in conjunction with the City's other fiscal policies, including Investment and Fund Balance policies. It may be amended or revised from time to time as determined by the City.

**Net Debt Service equals budgeted debt service net of Enterprise Funds and State reimbursed School Debt Service*

***Per Capita Personal Income, as published by the U.S. Bureau of Economic Analysis (BEA), Bearfacts, for Portland-South Portland-Biddeford region.*

*Recommended by City Council Finance Committee, October 6, 2011
Order 64-11/12 – Given first reading on 11/7/2011, and passage on 11/21/2011.*

A: FUNDING SUMMARY - GENERAL FUND
CIP 2015

	FY14 auth.	FY15	FY16	FY17	FY18	FY19	Five YR Total
Funding Requested (FY15-FY19)							
City	32,101,496	44,710,561	44,184,681	40,997,601	16,505,500	14,241,500	160,639,843
School	8,170,000	4,640,094	13,470,215	26,696,445	5,946,250	2,760,000	53,513,004
Total General Fund	40,271,496	49,350,655	57,654,896	67,694,046	22,451,750	17,001,500	214,152,847
Sewer Enterprise Fund	5,105,000	2,832,000	3,450,000	4,561,060	1,500,000	1,460,000	13,803,060
Funding Recommendation							
Cash							
City	667,000	383,000	80,000	100,000	-	345,000	908,000
School	-	-	-	-	-	-	-
Total General Fund Cash	667,000	383,000	80,000	100,000	-	345,000	908,000
Sewer Enterprise Fund	1,060,000	115,000	35,000	40,000	-	-	190,000
Borrowing							
City	15,155,000	10,983,000	16,785,000	16,680,000	11,050,000	25,195,000	80,693,000
School	5,935,000	1,525,000	2,905,000	10,040,000	26,055,000	5,765,000	46,290,000
Subtotal General Fund Borrowing	21,090,000	12,508,000	19,690,000	26,720,000	37,105,000	30,960,000	126,983,000
Public Art	73,000	63,000	99,000	134,000	186,000	155,000	637,000
Land Bank	73,000	63,000	99,000	134,000	186,000	155,000	637,000
Total General Fund Borrowing	21,236,000	12,634,000	19,888,000	26,988,000	37,477,000	31,270,000	128,257,000
Sewer Enterprise Fund	4,045,000	3,277,000	3,415,000	4,520,000	1,500,000	1,460,000	14,172,000
Subtotal - Cash and Borrowing							
City	15,968,000	11,492,000	17,063,000	17,048,000	11,422,000	25,850,000	82,875,000
School	5,935,000	1,525,000	2,905,000	10,040,000	26,055,000	5,765,000	46,290,000
Total General Fund	21,903,000	13,017,000	19,968,000	27,088,000	37,477,000	31,615,000	129,165,000
Sewer Enterprise Fund	5,105,000	3,392,000	3,450,000	4,560,000	1,500,000	1,460,000	14,362,000
Sewer Fund							
Reallocated Bond Proceeds		2,150,000	-	-	-	-	2,150,000
Authorized Tier III CSO LTCP		3,000,000	8,900,000	11,800,000	16,300,000	10,300,000	50,300,000
Total Grants, Fed/State	7,579,143	1,880,000	3,520,000	20,000	3,520,000	20,000	8,960,000
Total Funding Recommendation							
City	23,547,143	13,246,000	20,385,000	16,800,000	14,570,000	25,560,000	90,561,000
School	5,935,000	1,525,000	2,905,000	10,040,000	26,055,000	5,765,000	46,290,000
Total General Fund	29,482,143	14,771,000	23,290,000	26,840,000	40,625,000	31,325,000	136,851,000
Sewer Enterprise Fund	5,105,000	8,542,000	12,350,000	16,360,000	17,800,000	11,760,000	66,812,000

**A: FUNDING SUMMARY - GENERAL FUND
CIP 2015**

	FY14 auth.	FY15	FY16	FY17	FY18	FY19	Five YR Total
<u>Debt Service</u>							
Current General Fund Debt Service							
City General Obligation	9,890,834	10,019,919	9,172,383	8,351,893	7,539,174	7,169,173	
City Loans	123,002	123,002	123,002	123,002	123,002	123,002	
School General Obligation	4,972,096	5,793,145	5,076,951	4,696,180	3,990,113	3,425,063	
School Capital Leases	182,662	182,662	88,905	42,816	-	-	
Total GF (Non-POB) Debt Service	15,168,594	16,118,728	14,461,241	13,213,891	11,652,289	10,717,238	
Pen. Obligation Bond - City	9,377,276	9,985,356	10,626,295	11,309,463	12,033,870	12,802,135	
Pen. Obligation Bond - School	1,278,719	1,361,640	1,449,040	1,542,200	1,640,982	1,745,746	
Total POB Debt Service	10,655,995	11,346,996	12,075,335	12,851,663	13,674,852	14,547,881	
Total Current GF Debt Service	25,824,589	27,465,724	26,536,576	26,065,554	25,327,141	25,265,119	
Current GO Enterprise Fund Debt Service							
Sewer Enterprise	6,694,475	6,636,133	6,442,431	6,279,168	6,154,087	5,909,942	
Fish Pier Enterprise	77,560	74,408	61,559	54,724	27,958	17,467	
Total Current GO Ent Debt Service	6,772,035	6,710,541	6,503,990	6,333,892	6,182,045	5,927,409	
Authorized, Not Borrowed--est. debt service							
General Fund			-	289,750	282,888	276,025	
Enterprise Funds			285,000	1,123,750	2,217,975	3,713,150	
Projected New Issue Debt Service--est. debt service							
City			1,434,605	3,604,679	5,754,772	7,141,135	
School			275,375	700,296	1,841,135	4,261,359	
General Fund--est. debt svc			1,709,980	4,304,975	7,595,907	11,402,494	
Sewer Enterprise--est. debt svc			364,565	737,471	1,173,046	1,321,620	
Total Debt Service Est.	32,596,624	34,176,265	35,400,111	38,855,391	42,779,002	47,905,817	
Total Debt Service Est. (less POB)	21,940,629	22,829,269	23,324,776	26,003,728	29,104,150	33,357,936	
Less Ent. Fund Debt Svc, Current and Projected	(6,772,035)	(6,710,541)	(7,153,555)	(8,195,113)	(9,573,066)	(10,962,179)	
Less State reimbursed School Debt Service (est)	(1,909,047)	(1,871,914)	(1,830,799)	(1,764,834)	(1,744,931)	(1,696,255)	
Net Debt Service Est.	23,915,542	25,593,810	26,415,757	28,895,444	31,461,005	35,247,383	
Net Debt Service Est. (less POB)	13,259,547	14,246,814	14,340,422	16,043,781	17,786,153	20,699,502	
increase from prior year		987,267	93,608	1,703,359	1,742,371	2,913,350	

A: FUNDING SUMMARY - GENERAL FUND CIP 2015

	FY14 auth.	FY15	FY16	FY17	FY18	FY19	Five YR Total
<u>General Fund Debt Policy Indicators</u>							
Gen. Fund Rev. Projections	269,045,351	277,948,142 3.2%	282,561,297 1.6%	287,306,848 1.7%	292,185,906 1.7%	297,199,776 1.7%	
Total Debt Service as % of GF Rev	12.1%	12.3%	12.5%	13.5%	14.6%	16.1%	
Net Debt Service as % of GF Rev	8.9%	9.2%	9.3%	10.1%	10.8%	11.9%	
Moody's Selected Indicator** (total debt service)	7.9%	7.9%	7.9%	7.9%	7.9%	7.9%	
S&P "moderate" range (total debt service)	8%-15%	8%-15%	8%-15%	8%-15%	8%-15%	8%-15%	
Population (1% increase every year)	66,810	67,478	68,153	68,834	69,523	70,218	
Per capita net debt service	\$ 358	\$ 379	\$ 388	\$ 420	\$ 453	\$ 502	
Per Capita Income (2% increase every 2 years)	\$ 41,522	\$ 42,352	\$ 42,352	\$ 43,200	\$ 43,200	\$ 44,065	
1.5% of Per Capita Income	\$ 623	\$ 635	\$ 635	\$ 648	\$ 648	\$ 661	
Total Outstanding debt (June 30 prior year)	\$ 288,015,985	\$ 295,729,222	\$ 278,909,459	\$ 276,709,146	\$ 279,810,433	\$ 288,111,622	
Total debt per capita	\$ 4,311	\$ 4,383	\$ 4,092	\$ 4,020	\$ 4,025	\$ 4,103	
Net Outstanding Debt (June 30 prior year)	\$ 213,581,238	\$ 222,889,999	\$ 223,018,306	\$ 228,636,104	\$ 238,972,464	\$ 256,856,941	
Net debt per capita	\$ 3,197	\$ 3,303	\$ 3,272	\$ 3,322	\$ 3,437	\$ 3,658	
Moody's "moderate" indicator (net debt)	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	
S&P "moderate" range (net debt)	\$2,000-\$5,000	\$2,000-\$5,000	\$2,000-\$5,000	\$2,000-\$5,000	\$2,000-\$5,000	\$2,000-\$5,000	
State equalized valuation (1% est. increase)	7,552,150,000	7,551,450,000	7,626,964,500	7,703,234,145	7,780,266,486	7,858,069,151	
Total Debt %, total debt OS	3.8%	3.9%	3.7%	3.6%	3.6%	3.7%	
Net Debt %, non-ent debt OS	2.8%	3.0%	2.9%	3.0%	3.1%	3.3%	
Net debt %	2.83%	2.95%	2.92%	2.97%	3.07%	3.27%	
S&P "moderate" range (net debt)	3%-6%	3%-6%	3%-6%	3%-6%	3%-6%	3%-6%	

* As of February 6, 2014

**For Aa rated cities

Historic Debt Service

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Taxable Valuation	4,201,396,820	5,691,984,880	6,749,780,910	7,654,632,048	7,408,990,350	7,449,628,820	7,439,890,180	7,446,064,220	7,489,882,580	7,495,433,220	7,662,000,000
Net Debt (Budget less POB)	13,492,233	13,453,004	13,886,009	14,480,975	14,037,564	14,783,589	14,198,008	13,322,321	13,700,656	13,710,476	14,660,827
<i>Increase from Prior Year</i>		(39,229)	433,005	594,966	(443,411)	746,025	(585,581)	(875,687)	378,335	9,820	950,351
Tax Rate increase from prior year		(0.01)	0.06	0.08	(0.06)	0.10	(0.08)	(0.12)	0.05	0.00	0.12



Michael J. Bobinsky
Director of Public Services

To: Finance Committee Members
From: Michael J. Bobinsky, Director of Public Services
Date: February 20, 2015
Subject: Background on Capisic Pond Park Project; Funding and CIP Ranking

Project Background and current status

Over the past 15 years, the City has made significant investment in improving the Capisic Brook watershed through combined sewer overflow abatement and stormwater management and planning. With recent Capisic Pond Park habitat enhancements through the West Side Interceptor Sewer Separation project and planned improvements to watershed quality under the Capisic Brook Watershed Management Plan, a Capisic Pond enhancement project will allow the community to realize the full benefits of this resource. The goal of the enhancement project is to improve the existing habitat for the variety of species that currently utilize the pond and improve the aesthetic quality of the pond, while balancing the concerns of local residents and maintaining the existing character of the park. This will be achieved by sediment removal in portions of the pond to increase pond water depth, removal of the current population of cattails in selected areas and increasing the open water component of the pond.

Permits Received:

- Level III City Site Plan; April 16, 2014
- MaineDEP Individual Natural Resource Protection Act Permit; May 23, 2014
- United States Army Corps of Engineers Individual Permit; July 1, 2014

The remaining required permit is a one (1) page form to be filed in advance of construction (minimum two-weeks in advance). It is a MaineDEP Stormwater Permit by Rule and Notice of Intent to comply with the Maine Construction General Permit. Not filed at this time as it would expire before work began.

Anticipated Construction Timeframe:

Due to permitting restrictions, from our regulating agencies, dewatering of the pond shall begin in May, and excavation activities shall be limited to August 15 through November 1. All work shall be substantially complete by November 15, with Final Completion by November 30. Given funding status, I did not specify an exact year when the work would start, rather the construction period and month when work would occur.

Funding to date

Below is info on Contracts/Costs to date:

- Capisic Pond Sediment Evaluation \$11,000 – Final Memorandum Delivered in December 2011
- Phase 1 Capisic Pond Sustainability Plan (Evaluation and Management Options) \$30,000 – Final Report Delivered in July 2012
- Phase 2 Capisic Pond Sustainability Plan (Permit Scoping, Basis of Design, 30&80% Design) \$100,000 – Completed June 2013
- Phase 3 Capisic Pond Sustainability Plan (Permitting & Final 100% Design) \$80,000 – Completed February 2015

Total expended to Date: \$221,000 (including forthcoming February invoice). Note that Phase 1 & 2 costs listed above included Rockland Ave Outfall evaluation and design, which was integral to those efforts and cannot easily be broken out. Final design and permitting for Rockland Ave was completed in Phase 3 (\$35k cost, not included above).

Final Opinion of Probable Construction Cost for Pond Enhancement (including Construction Administration): \$2.1M

The Department sought outside grants to fund the balance of the project not approved for funding yet (\$1,125,000) and have not been successful as of this time. See attached memorandum from Doug Roncarati, Stormwater Coordinator summarizing grant application/status work to date and prior year memo on grants being sought. The City Council Resolution (attached) indicates that the City would know the status of the grants being sought by the Spring of 2015. While staff is continuing to research possibilities, alternative funding sources outside the City resources is not looking favorable.

CIP Funding Request

The Department did consider splitting the funding request between the General Fund and Sewer Fund. While there is a basis for assessing the balance of the project 50% between Sewer and the General Fund, the Department submitted the balance of the funding as part of the FY16 CIP project request under General Fund since it was not a mandated water quality plan as part of the \$10-15 million master plan for Capisic Brook; given funding limits and concerns in the Sewer Fund, other mandated water quality projects were rated higher. However, it can be justified that up to 50% of the project can be funded through the sewer/stormwater fund (see attached memo). This is a Council policy decision and staff is prepared to discuss.

Resolve 1-14/15

Passage: 9-0 on 7/21/2014

Effective 7/31/2014

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)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**RESOLUTION REGARDING THE CITY COUNCIL'S INTENTION TO FUND
CAPISIC POND IMPROVEMENT PROJECT**

WHEREAS, the Fiscal Year 2014 Capital Improvement Plan and Fiscal Year 2015 Capital Improvement Plan recommend funding for the Capisic Pond Improvement Project; and

WHEREAS, the permitting work for this project will not be completed until late 2014; and

WHEREAS, the City has identified several possible grant sources that might be able to offset the estimated cost of this project; and

WHEREAS, the City Council authorized funding in Fiscal Year 2014 for engineering and permitting and plans to authorize partial funding of the project in the Fiscal Year 2015 Capital Improvement Plan; and

WHEREAS, the City intends to apply for various grants identified and others that may be available during the summer and fall of 2014 and the winter of 2015; and

WHEREAS, by the spring of 2015 the City should know what grants it has succeeded in being awarded,

NOW, THEREFORE BE IT RESOLVED BY THE PORTLAND CITY COUNCIL, that the Council intends to fund those portions of the project that are not covered by grant funds in a future Capital Improvement Plan.

**COMMITMENT & INTEGRITY
DRIVE RESULTS**

41 Hutchins Drive
Portland, Maine 04102
www.woodardcurran.com

T 800.426.4262
T 207.774.2112
F 207.774.6635



June 13, 2014

Michael Bobinsky, Director
Department of Public Services
55 Portland Street
Portland, Maine 04101

Re: Capisic Pond Improvements – Construction Cost Percentages, Sewer/Drainage Maintenance versus Pond Enhancement

Dear Mike:

At your request, we have evaluated the Capisic Pond Enhancement project to identify an approximate breakdown of cost (on a percentage basis) that can be attributed to: 1) maintenance associated with the impacts of sewer and drainage on the pond; and 2) enhancements to satisfy the public's interest in habitat restoration and preservation of the pond as a recreational and aesthetic resource in the park. To perform this evaluation, we made the assumption that the costs for dredging (removal of sediments) from the pond is wholly a maintenance cost associated with sedimentation of the pond as a result of the City's drainage and sewer systems in the heavily developed Capisic Brook and Rockland Ave Outfall watersheds. We refer to this as sewer/drainage maintenance costs. We further made the assumption that enhancements associated with creating new habitat buffer areas on the edge of the pond, including edge stabilization and plantings, is wholly an enhancement cost to benefit the public's interests in habitat restoration and park preservation. We refer to this as pond enhancement costs. All other miscellaneous costs that are incurred to perform the work (ex. – office trailer, erosion controls, stabilized matting) were allocated on a relative percentage basis of the sewer/drainage maintenance costs and the pond enhancement costs.

Based on these breakdowns, we have determined that 50% of the total construction costs for the project can be attributed to sewer/drainage maintenance costs and 50% of the total construction costs can be attributed to pond enhancement costs.

Sincerely,

WOODARD & CURRAN INC.

A handwritten signature in dark ink, appearing to read "D. Senus". The signature is fluid and cursive, written over a horizontal line.

David Senus, P.E.
Project Manager

225672.77



Michael J. Bobinsky
Director of Public Services

To: Michael Bobinsky, Director of Public Services

From: Douglas Roncarati, Stormwater Program Coordinator

Date: November 24, 2014

RE: Summary of efforts to identify grants and apply for funding for the Capisic Pond Wetland Enhancement project

Staff from the Department of Public Services and our consultant, Woodard & Curran, identified a number of potential grant opportunities that might provide funding for a wetland enhancement project like the one envisioned for Capisic Pond. The following is a summary of the potential funding sources that were identified and explored and an update on the status of each.

Maine Natural Resources Conservation Program (MNRCP): Staff submitted a summary proposal for this grant, which is funded through State wetlands mitigation contributions. The City was then asked to submit a full proposal and did so, requesting \$162,000 toward the Capisic Pond Wetland Enhancement project. The grant review committee met on November 6, 2014 to evaluate the proposals and the project was met with mixed reviews, but was not outright rejected. Some committee members do not like the fact that the pond and wetland habitat are manmade, while others questioned the sustainability of the project, because ongoing sediment and invasive plant management will be necessary for habitat maintenance. The committee asked if the City would accept a much smaller grant award and was told that the full amount of the request was necessary given the overall project cost and the overall administrative and legal burdens associated with the grant. The grant approval committee met on November 17, 2014 to make final decisions about which projects to fund and subsequently informed the City that the project would not be awarded a grant.

Maine Land & Water Conservation Fund: Staff did not apply for this grant because it was past deadline for a pre-application site inspection. Also, the focus of this grant is on recreation, rather than wetland invasive plant management to restore and enhance wading bird and waterfowl habitat. Shifting the goals of the project from the wetland enhancement to recreation in order to accommodate this grant would likely jeopardize our State & local project approvals.

National Fish & Wildlife Foundation Pulling Together Initiative: Staff did not apply for this grant because it was past deadline for a pre-proposal submission. Grant awards are small (up to \$75,000). Staff will contact the program manager to determine if there will be additional grant offerings next year and if this project would qualify.

U.S. Fish & Wildlife North American Wetlands Conservation Act (NAWCA) Small Grants Program: Staff did not apply for this grant due to the limited size of the award (up to \$75,000), in favor of applying for the larger version of this grant, the North American Wetlands Conservation Act Grants Program (U.S. Fish & Wildlife Service Bird Habitat Conservation), which provides grants up to \$1 million. While the two deadlines had passed for 2014, future rounds of this larger grant program are anticipated in 2015 and we will contact program staff for more information. It is important to note that at the MNRCP grant review committee meeting, one of the most vocal opponents of the pond enhancement project on the basis that it is not a natural wetland, was a representative of the U.S. Fish and Wildlife Service who would likely be involved with the local grant process. Given this situation, staff will need to determine if it is worth the cost and effort to apply for this grant next year.

Funders' Network for Smart Growth & Livable Communities – Partners for Places: Staff did not apply for this grant because it was past deadline for applications. We need to contact program staff to determine if this project will qualify, since the application states that they will not support local government staff or major capital projects.

Gordon & Betty Moore Foundation Marine Microbiology Initiative: There is no RFP process for this grant; Foundation staff seeks organizations whose research or projects would contribute to the Foundation's overall goals/existing projects and will ask for a formal proposal from that organization. Based on the marine research-oriented nature of projects funded to date and the very clear admonishment against submitting unsolicited proposals, no further action will be pursued.

Maine Outdoor Heritage Fund: Staff needs to explore this grant in more detail and could possibly apply for the March 1, 2015 round. This grant requires the support of a "Qualified Sponsoring Agency" and therefore some relationship-building around the pond enhancement project in advance of the application.

Five Star and Urban Waters Restorative Program: Staff did not apply for this grant because it was past deadline for application submission. Additional investigation will need to be done to determine if new funding will be available in 2015 and if the project meets the grant criteria.



MEMORANDUM

To: Finance Committee

From: Mark Rees, City Manager

Date: June 26, 2014

RE: Capisic Pond: Grant Options

For the June 26 Finance Committee meeting the Finance Committee requested responses to the following question:

What grants are being considered for the Capisic Pond Improvement project?

The following grants are being considered for the Capisic Pond Project:

1. Land and Water Conservation Fund - \$200,000
2. National Fish and Wildlife Foundation Pulling Together Initiative - \$25,000 - \$75,000
3. U.S. Fish & Wildlife Small Grants Program - \$75,000
4. Funders' Network for Smart Growth and Livable Communities, Partners for Places - \$150,000
5. Gordon and Betty Moore Foundation Marine Microbiology Initiative – unspecified
6. Surdna Foundation, Sustainable Environments – unspecified

From: Zach Henderson <zhenderson@woodardcurran.com>
To: "Michael Bobinsky (mbobinsky@portlandmaine.gov)" <mbobinsky@portlandmaine.gov>
Date: 6/24/2014 1:12 PM
Subject: FW: Capisic Pond - Possible Grant Opportunities

See options below. These may be viable.

Zach Henderson
Project Scientist - CPSWQ
1.800.426.4262
1.207.650.2576 (c)

-----Original Message-----

From: Lauren Swett
Sent: Friday, June 20, 2014 2:06 PM
To: Bobinsky Michael
Cc: 'Doug Roncarati (DAR@portlandmaine.gov)'; Zach Henderson; David Senus
Subject: Capisic Pond - Possible Grant Opportunities

Hi Mike,

Zach asked me to send you some information on grants that may be applicable for the Capisic Pond project. As Zach had sent in an email last week, we are working on the initial application for the Maine Natural Resource Conservation Program. We have come up with these additional grants that are currently accepting applications and may be options to consider for the Capisic project.

Land and Water Conservation Fund

http://www.maine.gov/dacf/parks/grants/land_water_conservation_fund.html

Funding administered by the National Park Service and the Maine Bureau of Parks and Lands, and intended for assistance with acquisition and/or development of public outdoor recreation facilities.

Pre-Inspection deadline July 28

Awards up to \$200,000, matching funds required

National Fish and Wildlife Foundation Pulling Together Initiative

<http://www.nfwf.org/pti/Pages/home.aspx>

Funding program for the management of weeds and invasives on public lands, natural areas, and private working lands.

Pre-Proposal application deadline July 1

Typical awards \$25,000-\$75,000, matching funds required

U.S. Fish & Wildlife Small Grants Program

<http://www.fws.gov/birdhabitat/Grants/NAWCA/Small/index.shlm>

Grant program for projects that further the goals of the North American Wetlands Conservation Act, including long-term protection, restoration, and/or enhancement of wetland and associated uplands habitats for the benefit of all wetlands-associated migratory birds.

Application deadline November 7

Maximum grant request \$75,000, matching funds required

Another current grant opportunity that doesn't quite fit with the Capisic project is through the Recreational Trails Program:

http://www.maine.gov/dacf/parks/grants/recreational_trails_program.shtml

This may be something to consider for other projects. It may also apply to educational programs that might be done in association with the Capisic project, if also related to the trails that run around the pond.

We'd need to do some additional research to verify the applicability of each program, but it's possible they could provide funding to certain parts of the project. If you'd like us to look into any of these grants further, please let us know.

Thanks, and have a nice weekend!

Lauren

Lauren Swett, P.E.

Project Engineer

Woodard & Curran

41 Hutchins Drive

Portland, Maine 04102

Phone: (800)426-4262 ext. 3303

Fax: (207)774-6635

**Funders' Network for Smart Growth and Livable Communities
Partners for Places**

This program creates opportunities for cities and counties in the United States and Canada to improve communities by building partnerships between local government sustainability offices and place-based foundations. National funders invest in local projects to promote a healthy environment, a strong economy, and well-being of all residents. Through these projects, Partners for Places fosters long-term relationships that make our urban areas more prosperous, livable, and vibrant. Successful proposals are for projects that the local government sustainability office and local, place-based funder(s) consider important to the community. The project must advance at least one of the following: a key aspect of a community-focused sustainability, climate action, comprehensive plan provision that specifically addresses sustainability; a key aspect of any plan endorsed by the mayor or city manager that states the goal of balancing economic development, environmental quality, and equity; an area identified for performance improvement or implementation for Certified STAR Communities.

Award max.: \$150,000

Eligibility: Local, place-based foundation, a public charity (501c3) created by a city or county government to accept grants, or a partnering nonprofit organization. The proposal must be submitted by a team of at least two partners who are: (1) the sustainability director of a city (municipality) or a county and, (2) the local, place-based foundation(s).

<http://www.fundersnetwork.org/participate/green-building/partners-for-places/>

**Gordon and Betty Moore Foundation
Marine Microbiology Initiative**

Summary: The aim of the Marine Microbiology Initiative is to uncover the principles that govern the interactions among microbes (who interacts with whom, how, when, where, and the consequences thereof) and that influence the microbially mediated nutrient flow in the marine environment (who consumes and excretes what, where, how much, when, and the consequences thereof). To achieve high scientific impact through these strategies, MMI employs four grantmaking approaches: A) Single Investigator awards (MMI Investigator portfolio) that support individual current and emerging leaders in the field; B) Multi-disciplinary Team Research Projects that support collaborations to address interdisciplinary challenges; C) Community Resource Projects that fund development of tools and infrastructure of broad utility to the entire research community; and D) Instrumentation and Technology Development grants that advance the community's capabilities through development of novel technology. The annual grant budget is roughly \$250 million.

The Foundation does not accept unsolicited proposals. Foundation staff research organizations as potential contributors to fill specific niches and achieve the outcomes within the Foundation's program areas. Once potential projects and grantees have been identified, the Foundation may request a formal proposal.

650-213-3000

<http://www.moore.org/programs/science/marine-microbiology-initiative>

**Surdna Foundation
Sustainable Environments**

The Sustainable Environments Program is working to overhaul our country's outdated and crumbling infrastructure with a new approach that will foster healthier, sustainable, and just communities. We believe in the potential of what we call "next generation infrastructure" to improve transit systems, make buildings more energy efficient, better manage our water systems and rebuild regional food systems. Focusing on urban areas and their surrounding suburbs, we seek solutions that connect and improve these infrastructure systems in ways that maximize positive impacts and minimize negative environmental, economic and social consequences. The Sustainable Environments Program seeks to create just and sustainable economies in four ways. (1) SUSTAINABLE TRANSPORTATION NETWORKS & EQUITABLE DEVELOPMENT PATTERNS. We support clean, affordable, equitable, high-quality and efficient transportation and land use development that better connects critical services, jobs, schools, housing and other regional destinations. (2) ENERGY EFFICIENCY IN THE BUILT ENVIRONMENT. We support efforts to help people make homes, businesses and other buildings more energy efficient. (3) URBAN WATER MANAGEMENT. We support efforts to capture storm water and slowly release it into the existing network of drains, pipes and sewers, or reuse it where it falls to cultivate natural green spaces. (4) REGIONAL FOOD SUPPLY. We support ways to make it easier to get local, sustainably produced food from our farms to the markets closest to where it's grown, and to better connect food producers and consumers.

212-557-0010

<http://www.surdna.org/what-we-fund/sustainable-environments.html>

To: Finance Committee Members
From: Michael J. Sauschuck, Police Chief
Date: February 20, 2015
Re: Communications System Replacement: 800 MHz Project-25 Trunked Radio Network

Portland's Communication System needs to be replaced as an emergency. In preparation for Council authorization of the FY16 projects in the annual Capital Improvement Plan, the City issued a Request for Proposals (RFP) on January 28, 2015. Responses to the RFP are due on March 24.

The RFP seeks to acquire and implement a new ten channel 800 MHz Project-25 simulcast trunked radio system that will replace the existing Motorola 800 MHz Smartnet system that is currently being utilized by the Cities of Portland and South Portland.

BACKGROUND

In 1999, the City of Portland began use of its citywide 800 MHz Motorola SmartNet Trunked Simulcast system for emergency services: dispatch, 911 service, and operations. The system integrated radio communications for all city departments onto a single technology platform for emergency service and day-to-day use. Since that time some upgrades and modifications to the system have taken place in an effort to meet the communications needs of Portland's First Responders. The City of South Portland is also a system participant using the 800 MHz communications infrastructure for their public safety communications.

In December of 2013, a report solicited by the City of Portland was submitted by Communications Design Consulting Group, LLC. discussing the eminent need to replace the system. The report revealed the communication system was categorized as being at the "end of its life" and its manufacturer, Motorola, would no longer be providing support for system components and software. Effectively, parts and service are longer available. This report estimated the basic upgrade cost at \$6.7 million with an additional \$3.85 million in potential options.

Authorizing the replacement was postponed during the FY15 budget process to allow for additional research. A peer review report on the initial consultant's review was conducted by RCC Consultants Inc. and was received in September of 2014. This report reached similar conclusions to the initial report.

OPTIONS

Two basic replacement options have been discussed: full system "turnkey" replacement and a phased-in approach. The full system replacement is the only viable option. The phased-in approach requires working with a single vendor exclusively and by-passing the city's purchasing ordinance. Under this option, some spending would be deferred, but the total cost of the system would increase because some components of the system would have to be purchased

to facilitate the phase-in that would be obsolete when finished. Nonetheless, with either approach, authorizing the full funding amount for the project is necessary.

ALTERNATIVES

The only alternative known is continuing to use the current system and replacing parts as they fail, if parts can be found. This alternative puts the public and city operations at risk for emergency services and day-to-day operations.

The Cumberland County Regional Communication's Center operates on several different communication frequencies that are each licensed to individual municipalities. These frequencies are older technology that are not compatible with the Portland/South Portland system and not a technology that will be supported into the future. Investing in the 800 MHz Project-25 simulcast trunked radio system is in support of the National Emergency Communication Plan released by the Department of Homeland Security in 2014. Cumberland County's system is a different communications platform than the Cities of Portland and South Portland used for different purposes. The systems are not compatible from an operational standpoint and would require a considerable investment on the County's and other municipalities' standpoint to make them so.

COST SHARE

With the exception of the handheld radios and mobile mounted radios, the project is a shared expense between Portland and South Portland. The plan is for Portland to authorize and borrow the full amount for the project and bid and build the project. South Portland will share approximately 30% of the debt payments according to the inter-local agreement signed by Council Order in 2007.

SCHEDULE

Given that more certain pricing will not become available until March 24, the final recommended authorization for the communication system, for the estimated full cost of the project cannot be finalized until after that date. The current schedule for the City Council to authorize the communication system project as part of the CIP is scheduled for the two Council meetings in April. According to Bond Counsel, a referendum is not necessary and also not recommended due to the emergency status this project has. See the attached memorandum from Bond Counsel.

Memo

To: Suzanne Knight, Interim Director of Finance
From: Jim Saffian, Bond Counsel
Date: February 19, 2015
Re: City Charter Referendum Requirements

This memorandum discusses the Portland Charter referendum requirements as they relate to the proposed City financing of a replacement public safety radio communication system.

Article VII, Section 16(a)(1) of the City Charter, states that:

(a) The city council shall submit the following to voter referendum:

- (1) Orders or resolves authorizing the issuance of general obligation securities of the city in a principal amount greater than five one-hundredths of one (1) percent of the last certified state valuation of the city for a single capital improvement or item of capital equipment; or

Thus, based on the City's current 2015 State Valuation of \$7,707,200,000, a bond order in the amount of \$3,853,600 or more for a single capital improvement or item of capital equipment, unless excepted under Article VII, Section 16(b), would trigger the referendum requirement. Article VII, Section 16(b) provides for the following three exceptions to the referendum requirement: (i) refunding bonds, (ii) street, storm water and sewer bonds and (iii) bonds for a declared emergency.

(b) The provisions of this section shall not be applicable to any order or resolve authorizing (i) the refunding of any securities or other obligations of the city; (ii) the issuance of general obligation securities, or other direct or indirect obligations, of the city for streets, sidewalks, or storm or sanitary sewers; or (iii) any construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other declared emergency. For purposes of this section, the city council may by vote of at least seven (7) of its members adopt emergency orders or resolves authorizing construction or financing of improvements or equipment needed as a result of fire, flood, disaster or other emergency and such orders or resolves shall contain a section in which the

emergency is set forth and defined; provided, however, that the declaration of such emergency by the city council shall be conclusive.

The currently installed public safety radio communication system (now being replaced) financed with a portion of the City's 1998 Bonds was submitted to a referendum vote. In 2002, we concluded that certain additional and unexpected costs of the 1998 project (necessary to fix dead space or black out areas) should be considered as part of the same "single" capital improvement and thus also subject to the City Charter bond referendum requirement. This was so even though the additional amount, standing alone, was less than the then-current referendum triggering threshold. At that time, however, the City Council elected to authorize the additional bonding amount under the "declared emergency" provision of paragraph 16(b), thus avoiding the referendum requirement for the additional financing amount.

I understand that the City is currently confronting a similar situation. The existing public safety communication system is approaching the end of its useful life. Vendor support for repairs and upgrades to the system is also reaching an end point. In addition to any negative impact this may have on Portland residents, the City is now part of a combined dispatch system with South Portland and Cape Elizabeth. Thus, the City Council could conclude that these circumstances create an unsafe environment for City residences and City safety personnel and for the populations in the South Portland and Cape Elizabeth communities as well. Based on this public safety issue, there is therefore an urgent and unavoidable need to replace the current system with an up-to-date system that provides better reliability and coverage. The new system would ameliorate these concerns and would enhance the public safety of both the residents of the City and City public safety personnel as well as the residents in the combined public safety dispatch territory.

If the City Council determines that it would be appropriate to take this action, then the City Council (by a vote of 7 of its members) can define and declare the emergency circumstances that justify the referendum exception when it adopts the bond order for the replacement public safety radio communication system. Based on the discussion above, in this instance the circumstances giving rise to the emergency would be along the lines of the following:

- The current public safety radio communication system is approaching the end of its useful life;
- These circumstances create an unacceptable public safety risk to the residents of the City and to City public safety personnel and to the residents in the combined dispatch service area;
- There is therefore a substantial public exigency to speedily replace the current system with an up-to-date and more reliable public safety radio communication system in order to meet the needs of the residents of the City and of the combined dispatch service area;
- Because there is an urgent and unavoidable need for a new public safety radio communication system and because a process seeking referendum approval would create uncertainty and an unavoidable and unacceptable delay in the project, the

City Council finds and declares that emergency circumstances exist requiring approval of the project and issuance of the City's bonds therefore without referendum approval.

Thus, by an appropriately drafted City Council Order and related City Council findings and declarations, the project and bonds could be approved by the City Council without a referendum vote under the requirements that pertain in the City Charter.

I hope this information is helpful to you as you complete your planning for the project. Please give me a call if you have any further questions.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Finance Committee

FROM: Greg Mitchell, Economic Development Director

DATE: February 23, 2015

SUBJECT: Relocation Plan for Public Services Bayside and other City Departments

I. SUMMARY OF ISSUE

It has been the policy direction of the City, over a number of years, to relocate the Department of Public Services Bayside activities and combine other City Department activities to a single centralized location to support on peninsula City government service delivery. This memorandum will outline approaches to address City policy.

The DPS Bayside Relocation Plan is to remove all DPS activities from 44, 65, 71, and 82 Hanover Street and 56 Parris Street to properties that are currently being evaluated by City staff subject to City Council approval. It is noted that the DPS Administrative Office Building, located at 55 Portland Street, will continue to be owned by the City and occupied by DPS. See attached map.

Property Address/Acreage	City Use	New Location Status	Efficiency Results	Actions
44 Hanover St.	DPS Fleet Services	Under evaluation by City staff.	Puts uses under one roof/single site. Property available for sale.	HCDC to oversee RFP process to sell properties and negotiate purchase and sale agreements subject to City Council approval.
82 Hanover St.	DPS Lower Garage	Under evaluation by City staff.		
56 Parris St.	DPS Employee Parking	Under evaluation by City staff.		
71 Hanover St.	Satellite Sand/Salt Operation	Under evaluation by City staff.		Pending City Council Vote on 2/23/2015 for sale.
65 Hanover St./52 Alder Street	Trades/Traffic	212 Canco Road		Pending RFP Issuance

II. REASON FOR SUBMISSION

Housing and Community Development Committee and Finance Committee recommendations are needed to advance discussion and required real acquisition and financial appropriation actions to develop an action plan to address this policy.

III. INTENDED RESULT

Housing and Community Development Committee and Finance Committee actions (in the form of recommendations to the City Council) on specific actions outlined in this memorandum.

IV. COUNCIL GOAL ADDRESSED

It is the goal of the *Bayside* Vision 2000 Plan to relocate Public Services Bayisde operations out of Bayside to support mixed use development.

Promote Economic Development in the City in a manner that provides for increased property values, diversification across industry sectors, and high paying jobs.

(Reminder of this page intentionally left blank)

V. FINANCIAL IMPACT

An overview of the financial impacts of past City Council actions/appropriations and future staff recommended City Council Committee/City Council actions are provided below. It is noted that the City attorney and possibly City bond counsel need to approve this financial approach to ensure it complies with City Charter limitations related City Council debt authorization.

Source of Funds Table

Amount	Source	City Council Committee/City Council Required Action	Status
\$2.0 Million	Sale of City Somerset Street property, net broker commission	Requires City Council financial appropriation.	Awaiting closing of sale Spring, 2015.
\$0.2 Million	Sale of Riverside Street property	City Council approved Purchase and Sale Agreement (PSA).	Awaiting closing of sale before 7-1-15.
\$0.2 Million	Sale of 71 Hanover Street property	City Council authorization of PSA; followed by City Council financial appropriation.	City Council authorization of PSA set for 2/23/2015.
\$0.6 Million	Past City property sales.		Funds available
\$3.2 Million	New real estate purchase and new City debt to acquire add'l property and facilities under evaluation by City staff.	Requires Finance and HCDC Committee recommendations to City Council, followed by City Council financial appropriation.	Pending Committee review.
\$2.1-\$3.0 Million	Future Sale of DPS Fleet and Central Services properties, including 3.0 +/- acres at an estimated value of \$.700-\$1.0 million per acre based upon use	Requires HCDC approval of RFPs; then requires City Council authorization of PSAs.	Final estimate requires staff/consultant due diligence work
Total: \$8.3 - \$9.2 Mil.			

Uses of Funds Table

Amount	Use	City Council Committee/City Council Action	Status
\$3.2 Million	Acquisition of additional property and facilities under evaluation by City staff.	Requires Finance Committee recommendation to City Council, followed by City Council financial appropriation.	Pending review by Finance Committee.
\$2.1-\$3.0 Million	Renovation of facilities and new construction. Final estimate requires staff/consultant due diligence work.	Requires Finance Committee recommendation to City Council, followed by City Council financial appropriation.	
Total: \$5.3 - \$6.2 Million			

\$3 million Source and Use Table Difference. It is noted that this difference largely relates to uncertain future revenue associated with selling remaining DPS Bayside property.

VI. STAFF ANALYSIS

City staff has been working on evaluating real estate and facility options, over a number of years, to accomplish the complete relocation of most or all of Public Service Bayside Department activities combined with other departments to a single centralized location to provide city services on or near the Peninsula where a majority of demand for city governmental services are needed.

VII. RECOMMENDATION

This memorandum outlines recommended City Council Committee and City Council actions required to move forward with the DPS Bayside Relocations Plan.

VIII. LIST ATTACHMENTS

- Map of DPS Bayside Property

Bayside City Properties

Public Services Main Facilities – Portland St to Kennebec St



Interoffice Memorandum

To: Ian Houseal, Assistant to the City Manager
From: Kevin Austin, Fleet Manager
Date: February 19, 2015
Re: Ladder 1

Ladder 1 is currently the oldest piece of front line apparatus in service for the fire department. The apparatus itself is a specialty aerial device that supplements our (3) 100' aerials devices. This piece of equipment allows us the ability to accomplish some major operational tactics including a safe platform in which fire personnel can work at high elevations, the ability to manage master streams at the source within the platform and allows for the ability to operate over wires that might otherwise prohibit normal aerial operations.

Ladder 1 is stationed atop Munjoy Hill at 134 Congress Street and services all the peninsula as well as the North and East Deering neighborhoods. It is 1 of 2 aerial devices serving the metropolitan downtown area and its unique capabilities are utilized on the majority of our more serious fires, regardless of the location in the city. Ladder 1 is staffed daily with 2 firefighters and 1 officer. It responded on 1281 total calls in 2014 including 322 EMS calls.

Ladder 1 is a model year 1993 Peirce ladder truck with an 85' Snorkel articulating boom. The engine has logged 15,273 service hours and the aerial has 2,190 service hours. The City purchases fire apparatus with an expected useful life of 20 years and Ladder 1 is currently 22 years old. Fleet mechanics have noted significant corrosion inside the upper and lower booms. Sizable sheets of delaminated and corroded steel are dropping out of the internal section of both booms causing concern around the structural integrity of the booms. Given the age of the truck and the environment that it operates in this type of corrosion is to be expected.

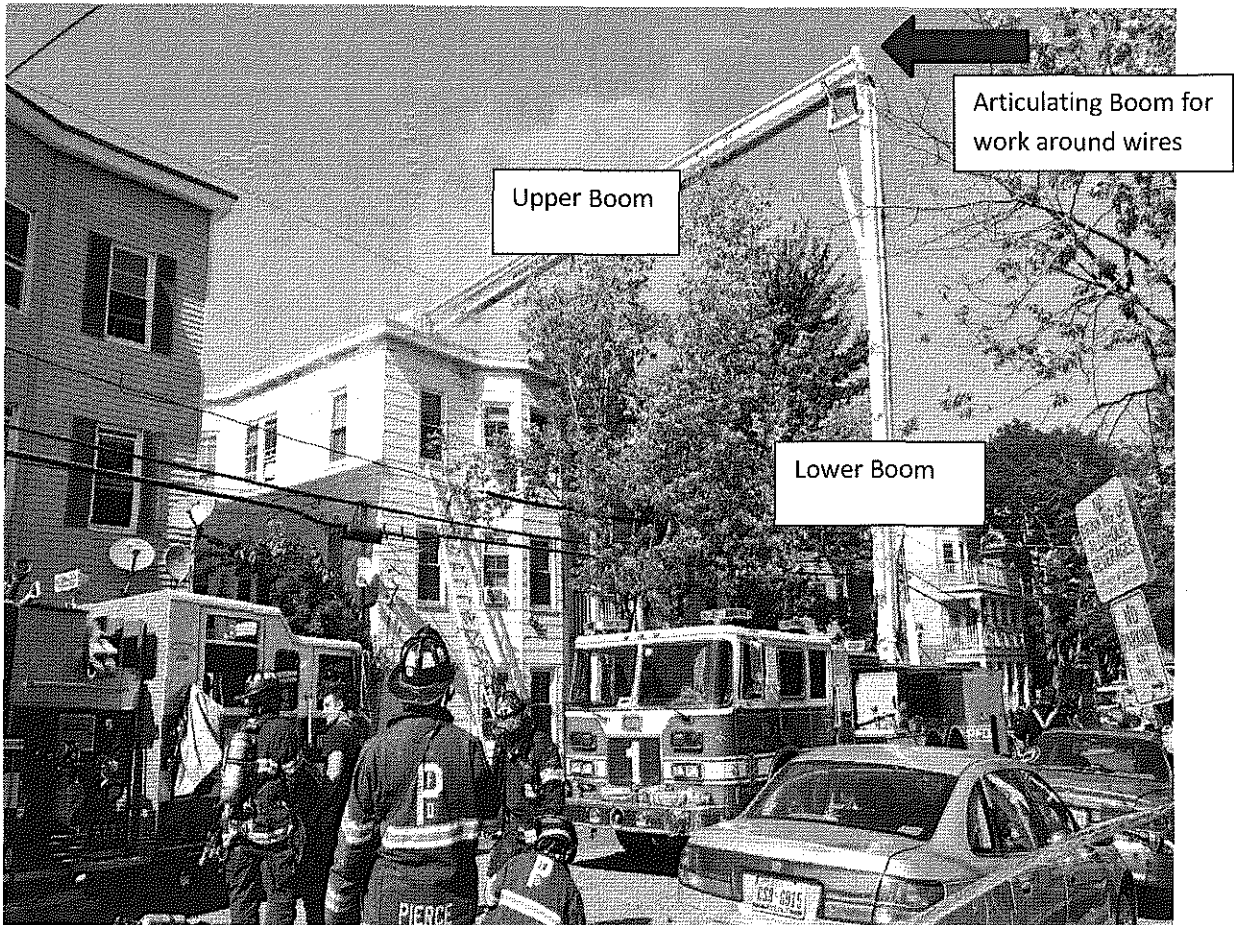
Given the safety sensitive nature of working on Fire Aerials, the age of the unit, and our knowledge of corrosion inside the boom, it is in the City's best interest to ensure safety sensitive equipment is replaced before unsafe conditions develop. Much of the City's fleet is "run to failure", however running a safety sensitive piece of equipment to failure is not an option.

Due to the 6 – 12 month lead time to build an aerial truck, Ladder 1 will have to remain in service for another year. Corrosion, by nature, worsens over time and Fleet Services has very low confidence that Ladder 1 can continue in front line service safely. Given the corrosion concerns and at the request of the Fire Fighter's Union, a "non-destructive" test has been scheduled to occur on February 23 to determine if we can safely continue to use Ladder 1 for the immediate future. Results will be shared immediately.

CC: Michael Bobinsky, Director Public Services
Jerry Lamoria, Fire Chief
Scott Thomes, Assistant Fire Chief
John Brooks, President Local 740

Ladder 1

Portland Fire Department

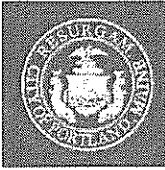


Equipment Type – Ladder Truck w/ 85' Snorkel type Boom

Model Year – 1993 Age – 22 years

Engine Hours – 15,273 Aerial Hours – 2,190

Service Calls in 2014 – 1,281 including 322 for EMS calls



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

MEMORANDUM

To: Finance Committee

From: Ian Houseal, Sustainability Coordinator

Date: May 10, 2012

Re: Consistency of the Capital Improvement Plan (FY 2013 – FY 2017) (CIP) with Council Adopted Master Plans, Studies, or Reports from 2009 to 2012

The following reviews Council adopted master plans, studies, or reports from 2009 to 2012 for references to specific capital projects and verifies that referenced projects appear in the CIP (FY 2013 – FY 2017). Only recommendations proposing specific capital projects have been reviewed.

1. Athletic Facilities Task Force Report
 - a. All cited capital projects in the Report are listed in the CIP.
2. Portland Economic Development Plan
 - a. No specific capital projects are cited in the Plan.
 - b. The Rand Road Technology Park is a capital project listed in the CIP which is a suggested investment mentioned in the Plan.
3. Solid Waste Task Force Report
 - a. The Report cites exploring and suggests switching to cart-based recycling collection and co-locating recycling containers with public trash receptacles by December 2016.
 - b. The Report cites finding a permanent location for the silver bullet recycling containers.
 - c. The CIP lists relocation of the silver bullet recycling containers.
4. West Commercial Street Trail Feasibility Study
 - a. The Study cites numerous improvements.
 - b. The Study is referenced in the CIP and the CIP lists the first phase of the Study's recommendations.
5. St. John/Valley Streetscape Improvement Plan
 - a. The Plan cites numerous improvements and those improvements were funded by CDBG funding in previous years.
 - b. The CIP lists reconfiguring St. John Street under another project which includes streetscape improvements.

6. Sustainable Portland

- a. No specific capital projects are cited in the Plan.

7. Peninsula Transit Study

- a. The Plan cites specific pedestrian crossing, sidewalk improvements, bicycle facilities, highway entrance facilities, park-and-ride, and transit facility improvements.
- b. The CIP lists sidewalk and pedestrian crossing improvements, but does not reference specific crossing listed in the Plan other than projects in the Bayside neighborhood.
- c. The CIP does not list transit facility improvements; specific improvements are under consideration by GPCOG and METRO.
- d. The CIP lists highway Exit 6 improvements and other Forest Avenue corridor improvements and paving of the Washington Avenue corridor.
- e. The CIP does not list bicycle lane stripping, but those costs are in the lane stripping budget.
- f. The CIP does not list Park-and-Ride expansions.
- g. The CIP does not list installing bicycle storage stations.

8. Franklin Street Arterial Study

- a. No specific capital projects are cited in the Study.

ADOPTED MASTER PLANS, STUDIES, AND REPORTS

2009-2010

- 8-03-09 Order Amending Comprehensive Plan to Include Peninsula Transit Study
Transportation - Sponsored by Transportation Committee
- 11/16/09 Order Adopting Franklin Street Arterial Study Committee Report –
Sponsored by Councilor Donoghue
- 6/07/10 Order Amending Comprehensive Plan Re: Sustainable Portland –
Sponsored by the Energy & Environmental Sustainability Committee

2010-2011

- 8-02-10 Order Accepting West Commercial Street Trail Feasibility Study and
Approving Recommendation of Study – Sponsored by Transportation Committee
- 9-13-10 Order Approving St. John/Valley Streetscape Improvement Plan – Sponsored by
Transportation Committee

2011-2012

- 11-21-11 Order Adopting Portland Economic Development Plan – Sponsored by
Community Development Committee
- 11-21-11 Order Approving Athletic Facilities Task Force Report – Sponsored by
Athletic Facilities Task Force

COMMUNICATIONS 2011-2012

- 9-07-11 Solid Waste Task Force Report
- 10-03-11 Portland Economic Development Plan
- 11-21-11 Congress Square Redesign Study Group

CAPITAL PROJECT PLANNING WORKSHEET - GENERAL FUND

	FY15 auth.	FY16	FY17	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27
Funding Recommendation													
Capital Maintenance Borrowing	12,634,000	14,257,000	12,641,700	11,984,000	14,283,000	7,819,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000
Projected New Issue Debt Service--est. debt service													
General Fund--est. debt service			1,477,165	2,851,775	4,133,122	5,540,183	6,243,185	7,108,534	7,837,438	8,535,627	9,182,202	9,765,236	10,176,696
Projected GF Debt Service Est.	25,597,991	26,382,363	27,659,955	28,290,711	29,161,625	30,059,249	31,034,811	32,403,250	33,613,151	34,843,185	36,024,236	37,397,314	15,063,216
increase from prior year	1,682,449	784,372	1,277,592	630,756	870,915	897,624	975,562	1,368,438	1,209,901	1,236,034	1,181,050	1,373,079	(22,334,098)
Projected GF Debt Service Est. (less POB)	14,250,995	14,307,028	14,808,292	14,615,859	14,613,744	14,586,852	14,586,100	14,917,455	15,027,751	15,090,692	15,034,418	15,099,425	15,063,216
increase from prior year	991,448	56,033	501,264	(192,434)	(2,114)	(36,892)	(752)	331,354	110,296	61,941	(56,274)	65,007	(36,209)
Projected Debt Service Available		(784,372)	(2,061,964)	(2,692,720)	(3,563,634)	(4,461,258)	(5,436,820)	(6,805,259)	(8,015,160)	(9,245,194)	(10,426,245)	(11,788,323)	10,534,775
Projected FY15 Comparative Est. Tax Rate Increase	0.20	0.26	0.34	0.45	0.55	0.67	0.83	0.97	1.10	1.22	1.38	1.22	(1.22)

Potential CIP Major Project

	SELECT YEAR												
Elementary Schools	18	-	1,257,319	15,339,060	12,337,789	12,183,505	-	-	-	-	-	-	-
Public Services Relocation	17	-	6,000,000	-	-	-	-	-	-	-	-	-	-
Congress Square Re-Design	24	-	-	-	-	-	-	-	2,000,000	1,370,000	-	-	-
Capiisic Pond Improvements	18	-	1,125,000	-	-	-	-	-	-	-	-	-	-
Franklin Street Redesign	23	-	-	-	-	-	-	500,000	4,500,000	-	-	-	-
Libbytown	22	-	-	-	-	-	600,000	500,000	-	-	-	-	-
Spring Street	25	-	-	-	-	-	-	-	2,000,000	1,500,000	-	-	-
Bayside Transportation	25	-	-	-	-	-	-	-	500,000	2,000,000	1,000,000	-	-
State St & High St	25	-	-	-	-	-	-	-	1,500,000	1,500,000	-	-	-
Forest Avenue	21	-	-	-	-	500,000	2,000,000	500,000	500,000	-	-	-	-

Total Potential Projects		5,000,000	12,382,319	15,339,060	12,337,789	12,583,505	2,600,000	4,500,000	7,000,000	5,370,000	5,000,000	1,000,000	
Potential GF Debt Service Est.	25,597,991	26,382,363	27,659,955	28,860,711	30,880,946	33,138,700	35,106,940	37,465,638	38,647,679	39,847,092	41,528,121	43,128,204	20,991,135
increase from prior year	1,682,449	784,372	1,277,592	1,200,756	2,020,235	2,257,754	1,968,240	2,358,698	1,182,041	1,199,413	1,681,029	1,600,083	(22,137,069)
Potential GF Debt Service Est. (le:	14,250,995	14,307,028	14,808,292	15,185,859	16,333,065	17,666,302	18,658,229	19,979,843	20,062,279	20,094,599	20,538,304	20,830,315	20,991,135
increase from prior year	991,448	56,033	501,264	377,567	1,147,206	1,333,238	991,926	1,321,614	82,436	32,320	443,705	292,011	160,820
Potential Debt Service Available	-	(784,372)	(2,061,964)	(3,262,720)	(5,282,955)	(7,540,709)	(9,508,949)	(11,867,647)	(13,049,688)	(14,249,101)	(15,930,130)	(17,530,213)	4,606,856
FY15 Comparative Est. Tax Rate Increase (mi	0.10	0.26	0.41	0.66	0.94	1.17	1.44	1.57	1.70	1.88	2.05	(0.53)	
Comparative Tax Rate Increase (% from \$20 per 1,000 of value)	0.5%	1.3%	2.1%	3.3%	4.7%	5.8%	7.2%	7.9%	8.5%	9.4%	10.3%	-2.7%	
Prior Year Est. Tax Rate Increase (mil rate)	0.10	0.16	0.15	0.25	0.27	0.23	0.28	0.13	0.13	0.18	0.17	(2.58)	
Project Tax Rate Increase (mil rate)			0.07	0.22	0.38	0.50	0.62	0.61	0.60	0.65	0.67	0.69	

Capital Planning for Future/Potential Major CIP Projects

Project Detail

Elementary Schools is for the construction/renovation of the five mainland elementary schools which have not had significant improvements in recent memory. The cost estimates were generated by a school planning effort commonly referred to as "Buildings for Our Future". Resources expended to date include \$300,000 in the FY13 CIP to assess the 5 buildings, gather community input and produce preliminary design concepts and cost estimates. The project estimates contained in the proposed 5 year CIP will need to be refined as each design is developed.

The Hall Elementary School project will receive State funding and therefore costs are not represented on the working schedule. An additional \$400,000 was allocated, again in the FY13 CIP, for further design work.

All of these projects (including Hall School) will need voter approval via a referendum.

Public Services Relocation More detail will be provided by separate memorandum. Future capital cost estimates provided are estimates **ONLY**.

Congress Square Re-design is to re-design the intersection, plaza, and its surrounding sidewalks and public spaces in coordination with the State/High two-way conversion study. One component of the Congress Square Re-design includes the conceptual design of the entire square and design development and construction specifications for Congress Square Plaza. The other component includes the design development and construction specifications for the square/intersection outside of the plaza.

Funding for design of this project was approved in the FY 07 CIP at \$50,000, which was supplemented by \$50,000 from RockBridge when the concept included the events center. Costs incurred to date amount to \$82,750, including \$10,000 expended to evaluate competing options of a rooftop park and a ground plane plaza design. Design is on hold pending direction from the City Council. We estimate that \$50,000 - \$75,000 is needed to complete the design for the entire project scope.

Construction estimates have been provided by the Planning Office based on advice from the KMDG design team and a more detailed cost estimate for the plaza area provided by Wright-Ryan in November, 2014. Wright-Ryan's cost estimate for a ground level plaza is \$1,367,400. Our estimate for the renovation of the square, exclusive of the plaza, provided in a memorandum to the City Council in July, 2014, is a range of \$2m to \$2.5m. The current CIP request reflects these cost estimates, with \$2m requested in FY 18 and \$1.375 requested in FY19.

Capisic Pond Improvements is to improve the existing habitat for the variety of species that currently utilize the pond and improve the aesthetic quality of the pond, while balancing the concerns of local residents and maintaining the existing character of the park. This will be achieved by sediment removal in portions of the pond to increase pond water depth, removal of the current population of cattails in selected areas and increasing the open water component of the pond.

Total expended to date: \$221,000.

Final Opinion of Probable Construction Cost for Pond Enhancement (including Construction Administration): \$2.1M

More detail is provided in memorandum under separate agenda item.

Bayside Transportation implements the overarching A New Vision for Bayside plan (2000) that is part of the city's Comprehensive Plan. The plan identifies land use/redevelopment, infrastructure and transportation opportunities within Bayside to transform the industrial-oriented area into an active urban mixed use neighborhood. Additional area studies influencing transportation investments in Bayside include the Peninsula Traffic Study (not adopted), Marginal Way Master Plan (2006), Peninsula Transit Study (2008), Reclaiming Franklin Street (2009), Franklin Street Study Phase 2 (underway), Somerset Street Re-connection Study (underway) and the State-High Street Two-way Studies (2012 and underway). A Bayside Transportation Master Plan study will begin in April 2015.

Capital projects in the Bayside area to date include:

- the Bayside Trail (city, state, federal and private funds) for approximately \$2.5M
- Chestnut Street extension and sidewalk/lighting
- Marginal Way at Chestnut Street pedestrian crossing (2013), \$60,000
- Elm Street sidewalk phase 1 and 2 (2014 and to be constructed in 2015), \$70,000 and \$250,000 respectively from CDBG funds
- Cumberland Avenue sidewalk and lighting, Preble St – Forest Avenue (construction in 2015) for \$450,000 and Washington Avenue to Franklin St.
- Oxford Street Paving (MaineDOT, 2014),
- Back Cove South (Marginal Way) Storage Conduit project (to be constructed beginning 2016) for \$29,000,000 not including streetscape improvements.

Future capital cost estimates provided are broad estimates **ONLY**.

State St. & High St. is to convert State and High Streets from one-way to two-way. The study has a City Council appointed Project Advisory Committee (PAC) made up of a broad group of stakeholders, co-chaired by Councilors Donoghue and Marshall. The project design team includes City staff, PACTS representative, project consultant, and MDOT officials. Work on the study is approximately 50% complete. PAC meetings have been held and another PAC meeting to be held in early March. *Engineered opinion of costs is still being developed at this time.* The basis for the evaluation builds off a Phase I assessment of the feasibility of converting these two major street corridors from one-way to two-way to improve overall safety for vehicles, and pedestrians.

The study funding to-date (\$200,000) includes the evaluation and consideration of design requirements to accommodate this new travel movement including intersection changes, parking removal to accommodate intersection turning movements and traffic modeling to assess overall feasibility.

Capital costs include converting State and High Streets to two-way flow between Marginal Way and York Street, upgrade 15 traffic signals, intersection geometry adjustments at 12 intersections, and median adjustments on the Casco Bay Bridge. Planning Level Cost Estimate **ONLY**: 15 Signals x \$100,000 (average per intersection) = \$1,500,000, 12 Intersection Geometry Changes x \$100,000 (average per intersection) = \$1,200,000, Casco Bay Bridge Median Change = \$250,000, Total Concept Cost = \$2,950,000

Forest Avenue implements the Transforming Forest Avenue study (\$90,000, 2012) adopted as part of the city's Comprehensive Plan. The plan identifies significant opportunities to greatly improve the infill/redevelopment context of the street, pedestrian accessibility along and across Forest Avenue, the quality of the Forest Avenue streetscape, traffic operations, bikeways, and transit facilities and operations to increase ridership.

Additional area studies influencing transportation investments on Forest Avenue include the Peninsula Traffic Study (not adopted), the State-High Street Two-way Studies (2012 and underway), Somerset Street Re-connection (underway) and an upcoming Bayside Trail Extension/Libbytown Trail Study and Design (to begin in June 2015).

Capital projects impacting Forest Avenue to date include:

- the Regional Traffic Management System signal coordination project (MaineDOT, 2012) for \$750,000
- I-295 Exit 6 Safety project (MaineDOT, to be constructed in 2015) for \$1.0M
- Woodford's Corner Intersection Project (to be constructed in 2016) for \$1.6M
- Forest Avenue/Dartmouth intersection project (to be constructed in 2016/2017) for \$105,000.
- Additional CIP funds totaling \$650,000 have been allocated for bicycle-pedestrian, streetscape and intersection improvements, yet to be designed.

Future capital cost estimates provided are broad estimates **ONLY**.

Libbytown further implements the Libbytown Circulation and Streetscape Study (80% completed, begun in 2012). The study is evaluating the benefits of conversion of the one-way sections of Park Avenue and Congress Street to contribute to improved safety for all street users and to improve neighborhood livability and accessibility.

Study funding to-date is approximately \$115,000.

Capital projects to date impacting Libbytown include:

- Multiple Libbytown sidewalk and streetscape projects on Congress Street and Park Avenue (EDA, CIP, CDBG and developer contribution funded) totaling approximately \$350,000.
- Fore River Parkway Trail Extension from Thompson's Point Road to/across Congress St (PACTS and CIP) for \$275,000.

Spring Street implements the Spring Street-Free Street Area Streetscape Plan (2012) which has been adopted as part of the city's Comprehensive Plan. The plan seeks to make Spring Street a more urban street to improve pedestrian accessibility along and across Spring Street, improve the visual quality of the streetscape and stimulate infill/redevelopment of vacant and underutilized parcels. Study costs to date are \$15,000. Phase 1 is to be constructed in 2015 as part of a MaineDOT-administered, PACTS-funded Collector paving project.

Study funding to-date is approximately \$125,000 with 67% expended.

Capital projects to date include:

- Spring Street Redesign project, Phase 1 (\$800,000 CIP, \$100,000 Unifund, \$275,000 MaineDOT, to be constructed in 2015).

Full implementation of the Spring Street portion of the adopted master plan is estimated to be an additional \$3.5M total.

Franklin Street Phase II involves recommending the preferred redesign plans for the Franklin Street Corridor from Exit 7/Marginal Way to Commercial Street. Extensive public process has been a characteristic of this project starting in the Phase I concept planning to the current Phase II work with an active Project Advisory Committee (PAC), partnering agreement with PACTS and MDOT, and City for project management and funding. Current project is progressing with final design recommendations; presentations tentatively scheduled with the Transportation Sustainability and Energy Committee for this March, and City Council in April or May.

Funding for Phase II study was approximately \$500,000 and is 75% expended; engineered costs estimates are being prepared and are not finalized at this time.

Future capital cost estimates provided are estimates **ONLY**.



To: Finance Committee

From: Ian Houseal, Assistant to the City Manager

Date: March 17, 2015

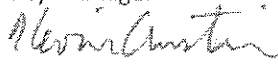
RE: Capital Improvement Plan 2016

Please see the attached material requested at the February 24, 2015 meeting by the Finance Committee with regard to the 2016 Capital Improvement Plan:

1. Provide the results of the Ladder 1 non-destructive test. (attached)
2. Provide two financial impact scenarios for the Capisic Pond project. (attached)

Interoffice Memorandum

To: Ian Houseal, Assistant to the City Manager

From: Kevin Austin, Fleet Manager 

Date: March 4, 2015

Re: Ladder 1 Non Destructive Test Results

The intent of this memorandum is to summarize the results of a "non-destructive test" completed during the week of February 23rd, 2015 by Underwriter Laboratories. A non-destructive test verifies that the equipment meets the requirements of Chapter 19 of the National Fire Protection Association; standard # 1911, "Standard for the Inspection, Maintenance, Testing, and Retirement of In-Service Automotive Fire Apparatus." This test was conducted due to concerns around the structural integrity of the aerial on Ladder 1 which is now twenty two years old and showing signs of corrosion inside the upper and lower booms.

A non-destructive test involves a thorough inspection of all automotive apparatus systems including pumps, foam systems, and ladders. The test also includes ultrasonic measurements of metal thickness and evaluation of all welds and bolts.

Ladder 1 was found to not be in compliance with NFPA standard 1911 due to leaks in the water system and improperly seated hydraulic cylinder seals which are repairable. Once the water system leaks and cylinder seals are repaired Ladder 1 will be compliant with NFPA standard 1911.

Ultrasonic measurement of metal thickness in the upper and lower booms indicates that the metal has gained 50% in thickness. This increase in thickness can be attributed to an extra layer of paint as the aerial was repainted ten years ago as well as delamination of the corroded metal inside the booms. These test results were shared with the Ladder 1 aerial manufacturer, Snorkel. Snorkel recommended that we video the inside of the booms to get a better look at the corrosion. The Water Resources Division of Public Services videoed the upper boom on March 10th, 2015 with a black and white sewer camera. The camera was unable to fit inside the lower boom, but delaminated corrosion was present on the inside of the upper boom. The video results have been sent to the aerial manufacturer. Due to the presence of corrosion inside the booms, Fleet Services remains concerned about the structural integrity of the aerial.

To summarize, Ladder 1 will be in compliance with NFPA standard 1911 once the water leaks are repaired. Due to the visible presence of corrosion on the booms and the age of the unit, Fleet remains concerned about the structural integrity of the boom. We may reach a point in the next year or two where we must down Ladder 1 around these safety concerns.

CC: Michael Bobinsky, Director Public Services



To: Finance Committee

From: Ian Houseal, Assistant to the City Manager

Date: March 17, 2015

RE: **Financial Impact of Capisic Pond Restoration Project**

At the March 24, 2015 Finance Committee meeting, the Finance Committee requested additional information regarding the financial impact of two funding scenarios for the Capisic Pond Restoration Project.

1. Splitting remaining project costs between the Sewer Fund and the General Fund; or
2. Fund the remaining project costs to the General Fund.

Project Funding To-Date	General Fund	Sewer Fund	Total
2014 CIP Appropriation	80,000		80,000
2015 CIP Appropriation	563,000	562,000	1,125,000
Total	\$643,000	\$562,000	\$1,205,000

1. Split Funding Scenario

	General Fund	Sewer Fund	Total
Prior Appropriations	643,000	562,000	1,205,000
Additional Appropriation	563,000	562,000	1,125,000
Total Debt	\$1,206,000	\$1,124,000	\$2,330,000
First Year Debt Service ¹	\$115,000	\$107,000	
First Year Rate Impact ²	0.015 tax rate	0.040 sewer rate	

2. General Fund Only Funding Scenario

	General Fund	Sewer Fund	Total
Prior Appropriations	643,000	562,000	1,205,000
Additional Appropriation	1,125,000		1,125,000
Total Debt	\$1,768,000	\$562,000	\$2,330,000
First Year Debt Service	\$168,000	\$54,000	
First Year Rate Impact	0.022 tax rate	0.020 sewer rate	

¹ Assumes 20 year term and 4.5% interest rate

² Assumes the FY2015 local property tax valuation of 7,662,000,000 and FY2015 sewer rate of \$8.81/HCF

Order 206 - 1/4/15
Tab 33 4/6/15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPROPRIATING \$18,731,000 OF BOND PROCEEDS FOR THE
CITY'S 2016 CAPITAL IMPROVEMENT PROGRAM**

IT IS HEREBY ORDERED THAT:

1. Subject to paragraphs 2 and 3 below, the sum of \$18,731,000 is hereby appropriated for the projects more particularly described in the project list for the City's 2016 Capital Improvement Program attached hereto as Exhibit A (the "2016 CIP Project List"):
 - a. The sum of \$1,600,000 is hereby appropriated for the projects more particularly described as the **Transportation Projects** on the 2016 CIP Project List.
 - b. The sum of \$2,705,000 is hereby appropriated for the projects more particularly described as the **Facilities Projects** on the 2016 CIP Project List.
 - c. The sum of \$1,140,000 is hereby appropriated for projects more particularly described as the **Parks, Fields and Trails Projects** on the 2016 CIP Project List.
 - d. The sum of \$9,135,000 is hereby appropriated for the projects more particularly described as the **Equipment and Vehicles Projects** on the 2016 CIP Project List.
 - e. The sum of \$4,005,000 is hereby appropriated for the projects more particularly described as the **Sewer / Stormwater Projects** on the 2016 CIP Project List.
 - f. The sum of \$73,000 is hereby appropriated for the projects more particularly described as the **Public Art Projects** on the 2016 CIP Project List.
 - g. The sum of \$73,000 is hereby appropriated for the projects more particularly described as the **Land Bank Projects** on the 2016 CIP Project List.
2. The appropriations set forth in paragraph 1 above are and shall be contingent upon the approval by the City Council of general obligation bonds for such purposes (the amount appropriated to be adjusted to reflect the principal amount of bonds or notes so authorized) and the issuance and delivery of such bonds or notes in anticipation thereof for such purposes. The foregoing appropriations shall also be applied to issuance costs for such bonds (or notes in anticipation thereof).
3. That if the actual cost of any project differs from the estimated cost on the attached Exhibit A, the Director of Finance is authorized, in his discretion to reallocate proceeds of the bonds issued therefore to any other project listed on the 2016 CIP Project List.

Exhibit A

Transportation Projects

PACTS/Match

PACTS Regional Transportation Management Systems (RTMS) - Traffic Signals	\$100,000
--	-----------

Streets/Sidewalks

Paving Preservation and Rehabilitation	1,000,000
Sidewalk Rehabilitation/Accessibility	500,000
Transportation Projects Total	<u>\$1,600,000</u>

Facilities Projects

Buildings/Garages

Fire Alarm & Sprinkler Systems at all Fire Stations	\$75,000
Waterproof Decking Recoat at Temple Street Parking Garage	305,000
Ultra Violet Water Treatment System at Riverton Pool	50,000
Passenger Elevator at City Hall	100,000
Seating at Hadlock Field	190,000
Bleachers at Ice Arena	100,000
Roof Deck at Spring Street Parking Garage	500,000
Library Roof Section	25,000

Marine

Compass Park Pier Stabilization	30,000
Piles at Portland Ocean Terminal	280,000
Steel Piles at Ocean Gateway Pier (engineering)	100,000

Schools

PATHS Paving	450,000
Fire Alarm System at Portland High School	150,000
Windows at Deering High School	250,000
Oil Tanks Removal at Various School Buildings	100,000
Facilities Projects Total	<u>\$2,705,000</u>

Parks, Fields and Trails Projects

Parks, Fields, Trails

Payson Park Softball Field "A" - Amenity and Field Upgrades	\$200,000
Lyman Moore Sports Complex	275,000
Capisic Pond Improvements	565,000
Golf Course Rehabilitation	100,000
Parks, Fields and Trails Projects Total	<u>\$1,140,000</u>

Equipment and Vehicles Projects

Equipment

Communication System Replacement	\$7,000,000
----------------------------------	-------------

Vehicles

30 Passenger Bus - School	50,000
Full Size Bus - School	90,000

7 Passenger Van - School	50,000
Medcu Ambulance Replacement - Fire	265,000
Police Cruisers (4) Replacement - Police	160,000
Ladder 1 Replacement - Fire	1,300,000
Bucket Truck Replacement - Forestry 5098	220,000
Equipment and Vehicles Projects Total	<u>\$9,135,000</u>

Sewer / Stormwater Projects

Buildings/Garages

Water Resource Relocation	\$250,000
---------------------------	-----------

Parks, Fields, Trails

Capisic Pond Improvements	560,000
---------------------------	---------

Sewer

CMOM - Sewer System Renewal	1,100,000
CMOM - Pump Station Rehabilitation	670,000
Rowe Avenue Sewer Separation	210,000

Stormwater

Stormwater Storage and Filtration Systems at Sagamore Village (Engineering)	120,000
Gravel Wetland Stormwater Treatment System in the Capisic Brook Watershed (Engineering)	175,000

Vehicles

Dump Truck Replacement - Public Services 3112	165,000
Dump Truck Replacement - Sewer 3110	165,000
Street Sweepers Replacement	175,000
CCTV Truck - NEW	415,000

Sewer / Stormwater Projects Total	<u>\$4,005,000</u>
-----------------------------------	--------------------

Public Art Projects	\$73,000
Land Bank Projects	\$73,000

TOTAL CIP FINANCED	<u>\$18,731,000</u>
---------------------------	----------------------------

Order 207-14/15
Tab 34 4-6-15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 17 (OFFENSES, MISCELLANEOUS PROVISIONS)
ARTICLE V (REGULATION OF TOBACCO)**

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

1. *That Chapter 17, Article V of the Portland City Code is hereby amended to read as follows:*

ARTICLE V. REGULATION OF TOBACCO*

DIVISION 1. GENERALLY

Sec. 17-70. Findings; purposes.

- (a) The city council hereby finds as follows:
 - (1) There is no risk-free level of contact with secondhand smoke; even brief exposure can be harmful to health;
 - (2) Secondhand smoke contains over 4,000 chemicals, more than 60 of which are known to cause cancer;
 - (3) The smoking of other substances may also cause serious health problems and risks to those who smoke; and
 - (4) The purpose of this regulation is to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment.

~~In children, secondhand smoke causes ear infections, more frequent and severe asthma attacks, respiratory symptoms (e.g., coughing, sneezing, shortness of breath), respiratory infections (i.e., bronchitis, pneumonia) and a greater risk for sudden infant death syndrome (SIDS). In adults who have never smoked, a secondhand smoke can cause heart disease and/or lung cancer. Even brief exposure can be harmful; breathing~~

~~secondhand smoke has immediate harmful effects on the cardiovascular system that can increase the risk of heart attack. People who already have heart disease are at especially high risk.~~

~~Recent outdoor research from Stanford University and Repace Associates demonstrates that, when measured up to 20 feet from a person actively smoking, toxicity levels can reach those similar to indoor smoking levels.~~

(b) The city council hereby finds that it is in the public health, safety and welfare to supplement state regulation of the use of tobacco, tobacco products and other substances that emit smoke that is used and intended customarily for inhalation into the lungs in outdoor locations and the free distribution and self-service displays of tobacco and tobacco products.

Sec. 17-71. Definitions.

Words used in this chapter shall have their common meanings, except that definitions set forth in 22 M.R.S.A. Chapter 262-A, or this section shall apply unless the context clearly indicates that a different meaning is intended:

Designated city trail means the traveled portion of all city-owned or controlled trails open to use by the public that have been designated as a nonsmoking trail by order of the city council.

Outdoor eating areas shall mean patios, decks, public property permitted for outdoor dining and other outdoor areas under the control of a restaurant or bar for the use of its patrons.

Owner means and includes the proprietor, manager, lessee, lessor licensee or any other person exercising control over any facility or location.

Private function is a room or a hall in which the sponsor of the private function and not the owner or proprietor has control over the seating arrangements.

Smoking means the lighting, inhaling, exhaling, burning or carrying of any cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, other similar product that relies on vaporization or aerosolization, or other tobacco product, or carrying or having in one's possession any lighted object giving off smoke from tobacco or any other substance that

emits smoke that is customarily used and intended for inhalation into the lungs.

Tobacco or tobacco product means any form of tobacco, including but not limited to cigarettes, cigars, pipe tobacco, chewing tobacco or snuff, and any material or device used in the smoking, chewing or other form of tobacco consumption, including but not limited to cigarette papers, ~~and pipes,~~ electronic cigarette, electronic cigar, electronic pipe, other similar product that relies on vaporization or aerosolization.

Traveled portion means that area of a trail covered by material such as concrete, pavement, stone dust, or cedar mulch, designed to bear traffic from individuals or vehicles powered by individuals.

...

DIVISION 4. SECONDHAND SMOKE ON
PLAYGROUNDS, BEACHES, AND ATHLETIC FACILITIES

Sec. 17-90. Purposes.

The purpose of this regulation is to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment. ~~Exposure to secondhand smoke is the third leading cause of preventable death in America, killing 6,000 children every year. Recent outdoor research from Stanford University and Repace Associates demonstrates that, when measured up to 20 feet from a person actively smoking, toxicity levels can reach those similar to indoor smoking levels. Secondhand smoke disproportionately affects vulnerable populations such as children and the elderly, causing asthma, chronic lung disease, ear infections heart disease and Sudden Infant Death Syndrome (SIDS). In fact, secondhand smoke can triple an infant's risk of dying from SIDS. The U.S. Surgeon General's 2006 report declared that "The debate is over. The science is clear; secondhand smoke is not a mere annoyance, but a serious health hazard...for which there is no safe level of exposure."~~

...

DIVISION 5. SECONDHAND SMOKE
INDOOR AND OUTDOOR EATING AREAS

Sec. 17-94. Smoking Prohibited in Indoor and Outdoor Eating Areas.

(a) Notwithstanding anything in division 2 of this chapter

~~to the contrary, smoking~~ Smoking is prohibited until 10:00 p.m. within the indoor and outdoor eating areas provided by restaurants and bars while such indoor or outdoor eating areas, or any portion thereof, are open and available for dining and beverage service.

(b) "Indoor eating areas" shall mean indoor areas permitted for dining that are under the control of a restaurant or bar for the use of its patrons.

(c) "Outdoor eating areas" shall mean patios, decks, public property permitted for outdoor dining and other outdoor areas under the control of a restaurant or bar for the use of its patrons.

~~(c) "Smoking" as used herein shall mean inhaling, exhaling, burning, carrying or having in one's possession any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form.~~

Sec. 17-95. Enforcement.

(a) It shall be the responsibility of restaurants and bars to notify its customers of this prohibition and to request that customers comply with it.

(b) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer shall issue one verbal warning to an individual and the restaurant. If the individual or restaurant or bar fails to comply after one warning, said individual or restaurant or bar shall be given a citation. Failure to comply after one warning is cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.

~~Sec. 17-94. Reserved.~~

~~Sec. 17-95. Reserved.~~

DIVISION 56. SMOKING PROHIBITED IN CITY PARKS AND PUBLIC GROUNDS

...

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Bethany Sanborn, Chronic Disease Prevention Program Manager, Public Health,
HHS Departments

DATE: March 25, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: Changes to Code of Ordinances, Chapter 17 – Regulation of Tobacco

SPONSOR:

Public Safety, Health and Human Services Committee, passed unanimously for full Council review on March 10, 2015

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading April 6, 2015 Final Action May 4

Can action be taken at a later date: X Yes No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation): Bethany Sanborn, verbal overview, 5 minutes

I. SUMMARY OF ISSUE (Agenda Description)

We would like to change parts of Chapter 17 – Regulation of Tobacco, to include electronic nicotine delivery systems (ENDS) to better protect public health.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

The Public Safety, Health and Human Services Committee asked the Public Health Division to compile information regarding electronic nicotine delivery systems (ENDS) for consideration by the committee to include ENDS in the definition of smoking products in City ordinance. Staff reviewed the City's existing ordinances related to smoking in public spaces, the actions of other states, local municipalities and health organizations, and the information behind the potential dangers of this relatively new tobacco product.

III. INTENDED RESULT

If City Council were to pass the changes in Chapter 17, ENDS would be prohibited in all locations where smoking is already prohibited.

IV. COUNCIL GOAL ADDRESSED

This item was specified in the Public Safety, Health and Human Services Committee's 2015 Workplan.

V. FINANCIAL IMPACT

There is a potential for additional revenue when fines are levied against businesses or individuals who do not comply with this ordinance. Staff time to communicate these changes will also have a financial impact, although not significant.

VI. STAFF ANALYSIS

ENDS are currently not regulated by the US Food and Drug Administration (FDA), nor have they been fully studied for their content and health effects. Concerns about their potential impact on youth tobacco use are also emerging.

Title 22 Chapter 262-A *Maine's Retail Tobacco Sales* laws define electronic cigarettes as tobacco products, which clarifies that e-cigarettes cannot be sold to any person under 18 years of age, and possession and use by minors is prohibited. Maine law does not currently prohibit the use of e-cigarettes in any location.

In 2014, more teens used e-cigarettes than traditional cigarettes, or any other tobacco product. Over 90% of lifetime smokers start before age 18, thus, youth use of a tobacco product and intention to use cigarettes are important public health data.

There is also concern that the use of ENDS in public places such as restaurants, hospitals, and workplaces may cause confusion and thus hinder enforcement of existing smoke-free laws, perhaps even renormalizing smoking in places that were traditionally smoke-free.

As of January 1, 2015, 274 municipalities have passed laws restricting e-cigarette use in 100% smoke-free venues.

VII. RECOMMENDATION

Approve.

VIII. LIST ATTACHMENTS

Amended Chapter 17 language.

Original to Public Safety, Health and Human Services Committee, March 6, 2015.

US State and Local Laws Regulating Use of Electronic Cigarettes

Prepared by: Bethany Sanborn, Chronic Disease Prevention Program Manager, Public Health, HHS Departments

Date: March 25, 2015

TO: Public Safety, Health and Human Services Committee

FROM: Public Health Division, Health and Human Services Department Staff

DATE: March 6, 2015

RE: Ordinance Changes, Smoking

On January 13th, the Public Safety, Health and Human Services Committee of the Portland City Council asked Public Health Division to compile information regarding electronic nicotine delivery systems (ENDS), including public health implications and draft language for consideration of the committee regarding including ENDS in the definition of smoking products in City ordinance. In preparation, staff reviewed the City's existing ordinances related to smoking in public spaces, the actions of other states, local municipalities and health organizations and the information behind the potential dangers of this relatively new tobacco product.

Health Implications

Scientific evidence regarding the human health effects of ENDS is limited. In addition to limited studies, these products are not currently regulated by the US Food and Drug Administration (FDA).

According to the FDA, "E-cigarettes have not been fully studied so consumers currently don't know:

1. the potential risks of e-cigarettes when used as intended
2. how much nicotine or other potentially harmful chemicals are being inhaled during use, or
3. whether there are any benefits associated with using these products."

Concerns about e-cigarettes and their potential impact on youth tobacco use are also emerging. In 2014, more teens used e-cigarettes than traditional cigarettes, or any other tobacco product. Additionally, a CDC study showed that youth who used e-cigarettes were more than twice as likely to have an intention to smoke conventional cigarettes. Over 90% of lifetime smokers start before age 18, thus, youth use of a tobacco product and intention to use cigarettes are important public health data.

There is also concern that the use of electronic smoking devices in public places such as restaurants, hospitals and workplaces may cause confusion and thus hinder enforcement of existing smoke-free laws, perhaps even renormalizing smoking in places which were traditionally smoke-free. In its workplace smoking and e-cigarette use restriction regulation, Boston states that "e-cigarettes and their use in the workplace seriously compromise current laws and regulations governing indoor smoking bans and have the potential to undermine the positive health and behavioral impacts associated therewith."

Finally, Poison Centers around the nation are reporting a recent uptick in calls about exposures to e-cigarette devices and liquid nicotine. In 2014, there were 3,381 call to Poison Centers compared to 271 in 2011. Slightly more than half of these reported exposures have occurred in young children under the age of 6. CDC Director Dr. Tom Frieden has said “e-cigarette liquids as currently sold are a threat to small children because they are not required to be childproof, and they come in candy and fruit flavors that are appealing to children.”

Actions of States, Municipalities and Health Organizations

Title 22 Chapter 262-A *Maine's Retail Tobacco Sales* laws define electronic cigarettes as tobacco products, which clarifies that e-cigarettes cannot be sold to any person under 18 years of age, and possession and use by minors is prohibited. Maine law does not currently prohibit the use of e-cigarettes in any location.

According to Americans for Nonsmokers' Rights, which tracks state and local legislation, as of January 1, 2015, the following laws were currently in effect related to e-cigarettes and/or ENDS:

- State Laws Restricting E-cigarette Use in 100% Smokefree Venues: 3 (Utah, New Jersey and North Dakota)
- State Laws Restricting E-cigarette Use in Other Venues: 15
- Local Laws Restricting E-cigarette Use in 100% Smokefree Venues: 274
- In addition, 162 local laws restrict E-cigarette Use in Other Venues

The detailed list provided by Americans for Nonsmokers' Rights is attached.

Staff identified numerous health organizations that have position statements supporting the inclusion of ENDS in smoke-free environment laws and/or expressing concerns about the lack of scientific data available these products, including the World Health Organization, American Lung Association, American Heart Association, American Cancer Society and the American Academy of Pediatrics.

City of Portland Ordinance

As requested by the Committee, attached is draft language which has been prepared by Corporation Counsel. The definition of smoking has been changed to include electronic smoking devices and previously removed language referring to smoke-free indoor and outdoor dining has been added back. This language was removed after the passage of state legislation regulating smoke-free indoor and outdoor dining.

U.S. State and Local Laws Regulating Use of Electronic Cigarettes

As of January 1, 2015

The following list includes states and municipalities with **laws currently in effect** that regulate where use of electronic cigarettes (e-cigarettes) is prohibited. E-cigarettes are battery-powered devices that are designed to mimic cigarettes by vaporizing a nicotine-laced liquid that is inhaled by the user. The use of e-cigarettes in workplaces and public places is a significant public health concern, not only because of their unregulated constituents and the potential health impact of the vapor on users and bystanders, but also because e-cigarette use causes public confusion as to where smoking is allowed, resulting in compliance problems with smokefree laws.

Most local and state smokefree laws were enacted before e-cigarettes were on the market, so while such laws do not explicitly mention e-cigarettes, it should not be assumed that their use is permitted. Existing smokefree laws are often interpreted to prohibit e-cigarette use in their smokefree provisions.

NOTE: In the 100% Smokefree Venues column, the following abbreviations are used: W=non-hospitality workplaces; R=restaurants; B=bars; G=gambling facilities.

For more information, please visit [ANR's e-cigarettes page](#).

State Laws Regulating Use of E-cigarettes

State Laws Restricting E-cigarette Use in 100% Smokefree Venues

Other state laws that do not explicitly address e-cigarettes might be interpreted as prohibiting the use of e-cigarettes in existing smokefree provisions.

State	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	Permitted In:
1. North Dakota	WRBG	No	
2. New Jersey	WRB	No	
3. Utah	WRB	Yes	Retailers that sell e-cigarettes, until 7/1/17.

State Laws Regulating E-cigarette Use in Other Venues

State	Prohibited In:	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
1. Arkansas	Use of e-cigarettes prohibited on school district property.	No	

State	Prohibited In:	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
2. Colorado	Definition of tobacco product for purposes of prohibition of use on school property amended to include e-cigarettes, unless approved by FDA as cessation devices.	No	
3. Delaware	Tobacco use, including use of e-cigarettes and hookahs, prohibited in all State workplaces, including all buildings, facilities, indoor and outdoor spaces and surrounding grounds, as well as parking lots and state vehicles operated on State workplace property.	No	
4. Georgia	Tobacco use, including use of e-cigarettes and hookahs, prohibited everywhere on campuses of University System of Georgia, with limited exceptions for educational purposes and research.	No	
5. Hawaii	Use of e-cigarettes prohibited on all Dept. of Health property where smoking is prohibited.	No	
6. Kansas	Tobacco use, including use of e-cigarettes, prohibited on all Dept. of Corrections property and grounds, by both employees and inmates. Per opinion of Attorney General, Indoor Clean Air Act of 2010 does not apply to e-cigarettes.	Partial	All places where smoking is prohibited per 3/12/10 law, including workplaces, restaurants, bars, gambling facilities, and public places generally.
7. Kentucky	Tobacco use, including use of e-cigarettes, prohibited on all properties of State Executive Branch, including buildings, vehicles, and land, but excluding specific outdoor areas such as parks, Kentucky Horse Park, and Kentucky State Fairgrounds. Per Governor's Office, does not apply to State colleges and universities.	No	
8. Maryland	Smoking, including use of e-cigarettes prohibited on MARC commuter rail system trains.	No	
9. New Hampshire	Use of e-cigarettes prohibited in public educational facilities and on grounds thereof.	No	

State	Prohibited In:	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
10. Oklahoma	Tobacco use, including use of e-cigarettes, prohibited in all Dept. of Corrections facilities, including vehicles and grounds.	No	
11. Oregon	State agency employees prohibited from using tobacco products, including e-cigarettes, in State agency buildings and on State agency grounds adjacent to buildings.	No	
12. South Dakota	Tobacco use, including use of e-cigarettes, prohibited in Dept. of Corrections facilities and on grounds thereof, by both employees and inmates.	No	
13. Virginia	Smoking, including use of e-cigarettes, prohibited on Virginia Railway Express trains and limited to 100 feet on north end of station platforms.	No	
14. Vermont	Smoking, including use of e-cigarettes, prohibited on school grounds and at child care facilities, both indoors and outdoors.	No	
15. Wisconsin	Smoking, including use of e-cigarettes, prohibited at indoor facilities of State Fair and at main stage area.	No	

Local Laws Regulating Use of E-cigarettes

Laws Restricting E-cigarette Use in 100% Smokefree Venues

Note: The jurisdiction(s) affected by county-level laws vary widely. Look for a plus symbol (+) next to each county with a law that includes both incorporated and unincorporated areas. A county without a symbol means that the county law covers unincorporated areas only.

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
1. AK	Juneau	RBG	No	
2. AK	Palmer	WRB	No	
3. AL	Anniston	WRBG	No	
4. AL	Bessemer	WRG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
5. AL	Clay	WRBG	No	
6. AL	Creola	WRBG	No	
7. AL	Foley	WRG	No	
8. AL	Fultondale	WRBG	No	
9. AL	Gadsden	WRBG	No	
10. AL	Midfield	WRBG	No	
11. AL	Monroeville	WRBG	No	
12. AL	Opelika	WR	No	
13. AL	Troy	WRBG	No	
14. AL	Vestavia Hills	WRBG	No	
15. AZ	Coconino County	WR	No	
16. AZ	Tempe	WRB	No	
17. CA	Arcata	WRB	No	
18. CA	Berkeley	WRBG	No	
19. CA	Beverly Hills	RBG	No	
20. CA	Campbell	RBG	No	
21. CA	Carlsbad	RBG	No	
22. CA	Contra Costa County	WRBG	No	
23. CA	Corte Madera	WRB	No	
24. CA	Davis	WRBG	No	
25. CA	Del Mar	WRB	No	
26. CA	Dublin	RBG	No	
27. CA	El Cajon	RBG	No	
28. CA	El Cerrito	WRBG	No	
29. CA	Eureka	WRBG	No	
30. CA	Fairfax	WRBG	No	
31. CA	Folsom	RBG	No	
32. CA	Foster City	RB	No	
33. CA	Fremont	WRB	No	
34. CA	Goleta	RB	No	
35. CA	Laguna Hills	WRBG	No	
36. CA	Long Beach	WRBG	No	
37. CA	Los Angeles	RBG	Partial	Retail e-cigarette stores and theatrical production sites.
38. CA	Manhattan Beach	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
39. CA	Marin County	WRB	Partial	Individual apartment units in multi-unit residences.
40. CA	Mill Valley	WRB	No	
41. CA	Morgan Hill	WRB	No	
42. CA	Mountain View	WRB	No	
43. CA	Oroville	W	No	
44. CA	Petaluma	W	No	
45. CA	Richmond	WRBG	No	
46. CA	San Bernardino	W	No	
47. CA	San Diego	WRBG	Partial	E-cigarette lounges and shops.
48. CA	San Francisco	WRB	No	
49. CA	San Mateo County	W	No	
50. CA	Santa Clara County	WRB	No	
51. CA	Santa Maria	RB	No	
52. CA	Santa Monica	WRB	Partial	Two existing e-cigarette lounges/businesses.
53. CA	Seal Beach	RBG	No	
54. CA	Sebastopol	WRBG	No	
55. CA	Solana Beach	RB	No	
56. CA	Temecula	WRBG	No	
57. CA	Tiburon	WRB	No	
58. CA	Union City	WRB	No	
59. CA	Walnut Creek	RBG	No	
60. CO	Edgewater	WRBG	No	
61. CO	Lakewood	RBG	No	
62. FL	Alachua County	WRG	No	
63. FL	Belleview	WRG	No	
64. FL	Clay County	WR	No	
65. FL	Hawthorne	WRG	No	
66. FL	High Springs	WRG	No	
67. FL	Lighthouse Point	WRG	No	
68. FL	Marion County	WRG	No	
69. FL	Newberry	WRG	No	
70. FL	Orange Park	WRG	No	
71. FL	Waldo	WRG	No	
72. GA	Chatham County	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
73. GA	DeKalb County	W	No	
74. GA	Pooler	WRBG	No	
75. GA	Savannah	WRBG	No	
76. ID	Ketchum	WRBG	No	
77. IL	Arlington Heights	WR	No	
78. IL	Chicago	WRBG	Partial	Theater performances; retail tobacco stores.
79. IL	Elk Grove Village	WRB	No	
80. IL	Evanston	WRB	No	
81. IL	Schaumburg	WRBG	No	
82. IN	Indianapolis/Marion	WRB	No	
83. KS	Overland Park	WRBG	No	
84. KY	Bardstown	WRBG	No	
85. KY	Berea	WRBG	No	
86. KY	Glasgow	RBG	No	
87. KY	Kenton County [†]	W	No	
88. KY	Lexington/Fayette	WRBG	No	
89. KY	Madison County [†]	WRBG	No	
90. KY	Manchester	WRBG	No	
91. KY	Richmond	WRBG	No	
92. KY	Versailles	WRB	No	
93. LA	Abbeville	WRBG	No	
94. LA	Cheneyville	WRBG	No	
95. LA	Monroe	WRBG	No	
96. LA	Ouachita Parish	WRBG	No	
97. LA	West Monroe	WRBG	No	
98. MA	Acton	WRBG	No	
99. MA	Adams	WRBG	No	
100. MA	Amherst	WRBG	No	
101. MA	Arlington	WRBG	No	
102. MA	Athol	WRBG	No	
103. MA	Auburn	WRBG	No	
104. MA	Barre	WRBG	No	
105. MA	Billerica	WRBG	No	
106. MA	Bolton	WRBG	No	
107. MA	Boston	WRB	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
108. MA	Bourne	WRB	No	
109. MA	Bridgewater	WRBG	No	
110. MA	Buckland	WRBG	No	
111. MA	Burlington	WRBG	No	
112. MA	Cohasset	WRBG	No	
113. MA	Concord	WRBG	No	
114. MA	Dartmouth	WRBG	No	
115. MA	Dedham	WRB	No	
116. MA	Deerfield	WRBG	No	
117. MA	Dighton	WRBG	No	
118. MA	Dover	RB	No	
119. MA	Dracut	WRBG	No	
120. MA	Easthampton	WRBG	No	
121. MA	Fitchburg	WRBG	No	
122. MA	Foxborough	WRBG	No	
123. MA	Franklin	WRBG	No	
124. MA	Gardner	WRBG	No	
125. MA	Gill	WRBG	No	
126. MA	Grafton	WRBG	No	
127. MA	Great Barrington	WRBG	No	
128. MA	Greenfield	WRBG	No	
129. MA	Hatfield	WRBG	Partial	Smoking bars and hotels/motels.
130. MA	Haverhill	WRBG	No	
131. MA	Hubbardston	WRBG	No	
132. MA	Hudson	WRBG	No	
133. MA	Lee	WRBG	No	
134. MA	Leicester	WRBG	No	
135. MA	Lenox	WRBG	No	
136. MA	Lynn	WRBG	No	
137. MA	Marblehead	WRBG	No	
138. MA	Mashpee	WRBG	No	
139. MA	Medway	WRBG	No	
140. MA	Montague	WRBG	No	
141. MA	Needham	WRB	No	
142. MA	New Bedford	WRBG	No	
143. MA	Newton	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
144. MA	North Attleborough	WRBG	No	
145. MA	Northampton	WRBG	No	
146. MA	Orleans	WRBG	No	
147. MA	Oxford	WRBG	No	
148. MA	Pittsfield	WRBG	No	
149. MA	Provincetown	WRBG	No	
150. MA	Salem	WRBG	No	
151. MA	Saugus	WRBG	No	
152. MA	Sharon	WRBG	No	
153. MA	Shelburne	WRB	No	
154. MA	Sherborn	WRBG	No	
155. MA	Somerset	WRBG	No	
156. MA	South Hadley	WRBG	No	
157. MA	Stockbridge	WRBG	No	
158. MA	Sunderland	WRBG	No	
159. MA	Sutton	WRBG	No	
160. MA	Swampscott	WRBG	No	
161. MA	Taunton	WRBG	No	
162. MA	Tewksbury	WRBG	No	
163. MA	Townsend	WRBG	No	
164. MA	Wendell	WRBG	No	
165. MA	Westminster	WRBG	No	
166. MA	Westport	WRBG	No	
167. MA	Westwood	WRBG	No	
168. MA	Weymouth	WRBG	No	
169. MA	Whately	WRBG	No	
170. MA	Winchendon	WRBG	No	
171. MA	Winchester	WRBG	No	
172. MD	Baltimore	W	Partial	Restaurants, bars, video lottery facilities, retail e-cigarette stores.
173. MN	Duluth	WRBG	No	
174. MN	Eden Prairie	WRBG	No	
175. MN	Edina	RBG	No	
176. MN	Ely	WRBG	No	
177. MN	Hermantown	WRB	No	
178. MN	Houston County	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
179. MN	Mankato	WRB	No	
180. MN	Sleepy Eye	WRBG	No	
181. MN	St. Anthony	WRB	No	
182. MN	Waseca	WRBG	No	
183. MO	Creve Coeur	WRB	No	
184. MO	Gainesville	RB	No	
185. MO	Jefferson City	WRBG	No	
186. MO	St. Joseph	WRBG	No	
187. MO	Washington	WRBG	No	
188. MS	Anguilla	WRBG	No	
189. MS	Arcola	WRBG	No	
190. MS	Baldwyn	WRBG	No	
191. MS	Bassfield	WRBG	No	
192. MS	Bruce	WRBG	No	
193. MS	Byram	WRBG	No	
194. MS	Calhoun City	WRBG	No	
195. MS	Centreville	WRBG	No	
196. MS	Coahoma County	WRB	No	
197. MS	Crawford	WRBG	No	
198. MS	Duncan	WRBG	No	
199. MS	Durant	WRBG	No	
200. MS	Ethel	WRBG	No	
201. MS	Farmington	WRBG	No	
202. MS	Flowood	WRG	No	
203. MS	Forest	WRBG	No	
204. MS	Friars Point	WRBG	No	
205. MS	Georgetown	WRBG	No	
206. MS	Indianola	WRBG	No	
207. MS	Itta Bena	WRBG	No	
208. MS	Louisville	WRBG	No	
209. MS	Magee	WRBG	No	
210. MS	Mendenhall	WRBG	No	
211. MS	Monticello	RBG	No	
212. MS	Moorhead	WRBG	No	
213. MS	New Augusta	WRBG	No	
214. MS	Plantersville	WRBG	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
215. MS	Prentiss	WRBG	No	
216. MS	Rolling Fork	WRBG	No	
217. MS	Sledge	WRBG	No	
218. MS	Southaven	WRB	No	
219. MS	Sumner	WRBG	No	
220. MS	Tupelo	WRB	Yes	Retail e-cigarette stores.
221. MS	Walnut	WRBG	No	
222. MS	Wesson	WRBG	No	
223. MS	Woodville	WRBG	No	
224. ND	Bismarck	WRBG	No	
225. ND	Dickinson	WRBG	No	
226. ND	Walhalla	WRBG	No	
227. ND	Williston	WRBG	No	
228. NJ	Newark	WRBG	No	
229. NM	Carlsbad	W	No	
230. NM	Santa Fe	WRB	No	
231. NY	Cattaraugus County	RBG	No	
232. NY	New York City	WRB	Partial	Retail e-cigarette stores.
233. NY	Suffolk County*	WRB	No	
234. NY	Tompkins County*	WRB	No	
235. OH	Oberlin	WRB	No	
236. OR	Benton County	WRB	No	
237. OR	Corvallis	WRB	No	
238. PA	Philadelphia	R	Partial	Specialty e-cigarette establishments; tobacco products distribution businesses.
239. SC	Denmark	WRB	No	
240. SC	Estill	WRBG	No	
241. SC	West Pelzer	WRB	No	
242. SC	Yemassee	WRB	No	
243. TX	Frisco	WRB	No	
244. TX	Harlingen	WRBG	No	
245. TX	Joshua	WR	No	
246. TX	Lufkin	WRBG	No	
247. TX	San Angelo	WRB	No	
248. TX	San Marcos	WRB	No	
249. TX	Socorro	WRB	No	

State	City/County	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
250. TX	Waxahachie	WRBG	No	
251. TX	Weatherford	R	No	
252. TX	Wichita Falls	WRB	No	
253. WA	King County ⁺	WRBG	No	
254. WA	Pasco	WRBG	No	
255. WI	Ashwaubenon	WRBG	No	
256. WI	Greenfield	WRBG	No	
257. WI	Onalaska	WRBG	No	
258. WV	Barbour County ⁺	WRBG	No	
259. WV	Berkeley County ⁺	WRBG	No	
260. WV	Calhoun County ⁺	WRBG	No	
261. WV	Greenbrier County ⁺	WRBG	No	
262. WV	Lewis County ⁺	WRBG	No	
263. WV	Marshall County ⁺	W	No	
264. WV	Mineral County ⁺	WRBG	No	
265. WV	Nicholas County ⁺	WRBG	No	
266. WV	Pleasants County ⁺	WRBG	No	
267. WV	Randolph County ⁺	WRBG	No	
268. WV	Ritchie County ⁺	WRBG	No	
269. WV	Roane County ⁺	WRBG	No	
270. WV	Taylor County	WRBG	No	
271. WV	Upshur County ⁺	WRB	No	
272. WV	Webster County ⁺	WR	No	
273. WV	Wirt County ⁺	WRBG	No	
274. WV	Wood County ⁺	WRBG	No	

*Law pertains to both incorporated and unincorporated areas of county.

Laws Currently in Effect

State Laws Restricting E-cigarette Use in 100% Smokefree Venues: 3

State Laws Restricting E-cigarette Use in Other Venues: 15

Local Laws Restricting E-cigarette Use in 100% Smokefree Venues: 274

In addition, 162 local laws restrict E-cigarette Use in Other Venues (not listed above)

Copyright 1998 - 2015 American Nonsmokers' Rights Foundation. All rights reserved.

[LS-44]

ARTICLE V. REGULATION OF TOBACCO*

*Editor's note--Ord. No. 241-98, § 1, adopted Apr. 7, 1998, amended this chapter by adding provisions as herein set out; such ordinance was approved at referendum on Nov. 3, 1998, with an effective date of Dec. 5, 1998.

*Editor's note--Pursuant to Council Order 39-12/13, passed by City Council on 2/4/13 repealed Article V in its entirety and replaced it with a new Article V.

DIVISION 1. GENERALLY

Sec. 17-70. Findings; purposes.

- (a) The city council hereby finds as follows:
 - (1) There is no risk-free level of contact with secondhand smoke; even brief exposure can be harmful to health;
 - (2) Secondhand smoke contains over 4,000 chemicals, more than 60 of which are known to cause cancer;
 - (3) The smoking of other substances may also cause serious health problems and risks to those who smoke; and
 - (4) The purpose of this regulation is to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment.

~~In children, secondhand smoke causes ear infections, more frequent and severe asthma attacks, respiratory symptoms (e.g., coughing, sneezing, shortness of breath), respiratory infections (i.e., bronchitis, pneumonia) and a greater risk for sudden infant death syndrome (SIDS). In adults who have never smoked, a secondhand smoke can cause heart disease and/or lung cancer. Even brief exposure can be harmful; breathing secondhand smoke has immediate harmful effects on the cardiovascular system that can increase the risk of heart attack. People who already have heart disease are at especially high risk.~~

~~Recent outdoor research from Stanford University and~~

~~Repace Associates demonstrates that, when measured up to 20 feet from a person actively smoking, toxicity levels can reach those similar to indoor smoking levels.~~

(b) The city council hereby finds that it is in the public health, safety and welfare to supplement state regulation of the use of tobacco, tobacco products and other substances that emit smoke that is used and intended customarily for inhalation into the lungs in outdoor locations and the free distribution and self-service displays of tobacco and tobacco products.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-71. Definitions.

Words used in this chapter shall have their common meanings, except that definitions set forth in 22 M.R.S.A. Chapter 262-A, or this section shall apply unless the context clearly indicates that a different meaning is intended:

Designated city trail means the traveled portion of all city-owned or controlled trails open to use by the public that have been designated as a nonsmoking trail by order of the city council.

Outdoor eating areas shall mean patios, decks, public property permitted for outdoor dining and other outdoor areas under the control of a restaurant or bar for the use of its patrons.

Owner means and includes the proprietor, manager, lessee, lessor licensee or any other person exercising control over any facility or location.

Private function is a room or a hall in which the sponsor of the private function and not the owner or proprietor has control over the seating arrangements.

Smoking means the lighting, inhaling, exhaling, burning or carrying of any cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, other similar product that relies on vaporization or aerosolization, or other tobacco product, or carrying or having in one's possession any lighted object giving off smoke from tobacco or any other substance that emits smoke that is customarily used and intended for inhalation into the lungs.

Tobacco or tobacco product means any form of tobacco, including but not limited to cigarettes, cigars, pipe tobacco, chewing tobacco or snuff, and any material or device used in the smoking, chewing or other form of tobacco consumption, including but not limited to cigarette papers, ~~and pipes~~, electronic cigarette, electronic cigar, electronic pipe, other similar product that relies on vaporization or aerosolization.

Traveled portion means that area of a trail covered by material such as concrete, pavement, stone dust, or cedar mulch, designed to bear traffic from individuals or vehicles powered by individuals.

(Ord. No.39-12/13, 2-4-13)

Sec. 17-72. Reserved.

Sec. 17-73. Reserved.

Sec. 17-74. Reserved.

Sec. 17-75. Reserved.

Sec. 17-76. Reserved.

Sec. 17-77. Reserved.

Sec. 17-78. Reserved.

Sec. 17-79. Reserved.

Sec. 17-80. Reserved.

DIVISION 2. MISCELLANEOUS PROVISIONS

Sec. 17-81.Free distribution; sampling.

The free distribution or sampling of tobacco is prohibited in the City of Portland. A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(Ord. No. 241-98, § 1, 4-7-98; Ord. No. 39-12/13, 2-4-13)

Sec. 17-82.Self-service displays.

(a) Self-service displays of tobacco products, from which individual packages, cartons, or items may be selected by the customer, are prohibited in the City of Portland.

(b) The foregoing shall not apply in a retail tobacco store which specializes in the sale of tobacco and tobacco products only.

(c) A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-83. Nonretaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to smoke-free environment afforded by this article. A violation of this section shall be a civil violation subject to the general penalty provisions of section 1-15 of this code.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-84. Reserved.

Sec. 17-85. Reserved.

DIVISION 3. NONSMOKING ON DESIGNATED CITY TRAILS

Sec. 17-86. Purpose.

This ordinance is enacted to protect, preserve, and promote the health, safety, welfare, and quality of life of the children and other people that use designated city trails.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-87. Smoking prohibited.

It shall be unlawful for any person to smoke on a designated city trail at any time.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-88. Enforcement.

The parks and recreation department shall place signs at the beginning and end point of any city trail as well as in such other locations that, in its sole discretion, the parks and recreation department deems necessary to notify the public of this ordinance. Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer or park ranger shall issue one verbal warning to an individual. If the individual fails to immediately comply after one warning, individual shall be given a citation.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-89. Reserved.

**DIVISION 4. SECONDHAND SMOKE ON
PLAYGROUNDS, BEACHES, AND ATHLETIC FACILITIES**

Sec. 17-90. Purposes.

The purpose of this regulation is to decrease the exposure of individuals, and children in particular, to secondhand smoke in their outdoor environment. ~~Exposure to secondhand smoke is the third leading cause of preventable death in America, killing 6,000 children every year. Recent outdoor research from Stanford University and Repace Associates demonstrates that, when measured up to 20 feet from a person actively smoking, toxicity levels can reach those similar to indoor smoking levels. Secondhand smoke disproportionately affects vulnerable populations such as children and the elderly, causing asthma, chronic lung disease, ear infections heart disease and Sudden Infant Death Syndrome (SIDS). In fact, secondhand smoke can triple an infant's risk of dying from SIDS. The U.S. Surgeon General's 2006 report declared that "The debate is over. The science is clear; secondhand smoke is not a mere annoyance, but a serious health hazard...for which there is no safe level of exposure."~~

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-91. Smoking prohibited at playgrounds, beaches and outdoor athletic facilities.

(a) Smoking is prohibited both at, or within, twenty (20) feet of the following outdoor areas: playgrounds, beaches and outdoor athletic facilities owned and maintained by the city where members of the general public of any age assemble to engage in physical exercise, participate in athletic competition, play or recreational activity, or to witness sports, or other outdoor recreational events.

(b) The foregoing prohibition shall not apply in an area which has been designated prior to passage of this ordinance as a designated smoking area at Hadlock Field, but such area shall not be expanded.

(Ord. No. 39-12/13, 2-4-13)

Sec. 17-92. Enforcement.

(a) The health and human services department shall work with the public services department to place signs notifying the public of this prohibition at or near playgrounds and athletic facilities, as well as in such other locations that, in its sole discretion, the health and human services department deems necessary to notify the public of this ordinance.

(b) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer or park ranger shall issue one verbal warning to an individual. If the individual fails to comply after one warning, said individual shall be given a citation. Failure to comply after one warning is cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.
(Ord. No. 39-12/13, 2-4-13)

Sec. 17-93. Reserved.

DIVISION 5. SECONDHAND SMOKE
INDOOR AND OUTDOOR EATING AREAS

Sec. 17-94. Smoking Prohibited in Indoor and Outdoor Eating Areas.

(a) ~~Notwithstanding anything in division 2 of this chapter to the contrary, smoking~~ Smoking is prohibited until 10:00 p.m. within the indoor and outdoor eating areas provided by restaurants and bars while such indoor or outdoor eating areas, or any portion thereof, are open and available for dining and beverage service.

(b) "Indoor eating areas" shall mean indoor areas permitted for dining that are under the control of a restaurant or bar for the use of its patrons.

(c) "Outdoor eating areas" shall mean patios, decks, public property permitted for outdoor dining and other outdoor areas under the control of a restaurant or bar for the use of

its patrons.

(c) "Smoking" as used herein shall mean inhaling, exhaling, burning, carrying or having in one's possession any lighted cigar, cigarette, pipe, weed, plant or other combustible substance in any manner or in any form.

Sec. 17-95. Enforcement.

(a) It shall be the responsibility of restaurants and bars to notify its customers of this prohibition and to request that customers comply with it.

(b) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code enforcement officer shall issue one verbal warning to an individual and the restaurant. If the individual or restaurant or bar fails to comply after one warning, said individual or restaurant or bar shall be given a citation. Failure to comply after one warning is cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.

~~Sec. 17-94. Reserved.~~

~~Sec. 17-95. Reserved.~~

DIVISION 56. SMOKING PROHIBITED IN CITY PARKS AND PUBLIC GROUNDS

Sec. 17-96. Smoking prohibited in all city-owned or maintained parks.

(a) Smoking is prohibited in the City's public parks and grounds.

(b) The Council shall define by order the public parks and grounds to which this requirement shall apply and such order shall be kept on file in the Department of Public Services.
(Ord. No. 39-12/13, 2-4-13)

***Editor's Note:** Pursuant to Council Order 38-12/13, passed on 2/4/13 the following is the list of public parks to which 17-96(b) applies:

ORDERED, that smoking shall be prohibited in the following parks and public grounds as described in Section 17-96 of the Portland City Code:

Back Cove Park	Lobsterman Park
Baxter Woods	Longfellow Square
Bayside Park	Marginal Way Field
Bedford Park	Monument Square
Bell Buoy Park	Oatnuts Park
Belmeade Park	Payson Park
Boothby Square	Pleasant Street Park
Capisic Pond Park	Post Office Park
Congress Square	Presumpscot Park
Deering Oaks Park	Presumpscot River Preserve
Dougherty Field	Quarry Run Dog Park
Eastern Promenade	Riverton Park
Fessenden Park	Stroudwater Park
Fort Allen Park	Tommy's Park
Fort Sumner Park	University Park
Ganley Plaza	Valley Street Dog Park
Harbor View Park	Western Promenade
Heseltine Park	
Lincoln Park	

Sec. 17-97. Enforcement.

(a) The health and human services department shall work with the public services department to place signs notifying the public of this prohibition at or near playgrounds and athletic facilities, as well as in such other locations that, in its sole discretion, the health and human services department deems necessary to notify the public of this ordinance.

(b) Prior to issuing a citation for a violation of this section, a police officer or any law enforcement or code

enforcement officer or park ranger shall issue one verbal warning to an individual. If the individual fails to comply after one warning, said individual shall be given a citation. Failure to comply after one warning is cause for citation whether or not the failure or subsequent failures are contemporaneous in time with the initial warning.
(Ord No. 39-12/13, 2-4-13)

Order 208-14/15
Tab 35 4-6-15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 11 FOOD AND FOOD HANDLERS
ARTICLE I. and ARTICLE II. FOOD SERVICE ESTABLISHMENTS**

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

- 1. That Articles I and II, Sections 11-1 through 11-49 of the Portland City Code are hereby amended to read as follows:*

Chapter 11 FOOD AND FOOD HANDLERS*

...

ARTICLE I. IN GENERAL

| Sec. 11-1. Adoption of Maine State Food Code 2001³: Food Code.

There is hereby adopted for the purpose of prescribing regulations to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented, a code known as the Maine State Food Code 2001³ (hereinafter "Food Code") recommended by the health authority, being particularly the 2001³ edition thereof and the whole thereof except for such portions, as are deleted, modified or amended by section 11-4 and which code shall be controlling within the limits of the City.

Sec. 11-2. Copies on file with the Clerk.

Pursuant to Title 30-A M.R.S.A. §3003, at least three (3) copies of the Maine State Food Code as adopted by reference by Section 11-1 above, have been and shall be on file in the office of the City Clerk for public inspection and use.

Sec. 11-3. Definitions.

Wherever the words "regulatory authority" are used in the Food Code, they should be held to mean the health inspector of the City of Portland or his or her duly authorized representative.

Wherever the word "municipality" is used in the Food Code, it shall

mean the City of Portland.

ARTICLE II. FOOD SERVICE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 11-4. Amendments.

The Maine State Food Code 2001~~3~~¹³: Food Code adopted by section 11-1 is amended and modified in the following respects.

(a) Section 1.201.10.B shall be amended as follows:

Approved shall mean acceptable to the city health inspector as meeting the requirements of this article and conforming to good public health practices.

Food service establishment shall include any permanent, temporary or mobile establishment including any restaurant; caterer; innholder; buffet; lunchroom; grill room; lunch counter; tavern; dining room of a hotel; coffee shop; cafeteria; sandwich shop; soda fountain; in plant feeding establishment; private club; church feeding facility; school feeding facility; institutional feeding establishment; tea room; theater refreshment stand; grocery store; meat market; retail bakery store; delicatessen; bottle club; community kitchen; shelter; food pantry; or any other establishment where food or drink is prepared, served, kept, or stored for retail sale on-site. This definition shall not include as food service establishments private homes with permanent guests.

Imminent health hazard means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on: (a) The number of potential injuries, and (b) The nature, severity, and duration of the anticipated injury. Imminent Health Hazard includes, but is not limited to, the following: (1) an extended loss of water supply, (2) an extended power outage, (3) flood water or sewer back-up into the establishment, (4) fire, (5) a lack of hot water (minimum temperature of 100F for handwashing and 110F for warewashing) or (6) any other violation(s) that has/have the potential to pose an imminent threat to public health. Maine Food Code October 2013 Page 11 Failure to include other violations in this definition shall not be construed as a

determination that other violations may not, in light of the circumstances, be found to pose an imminent health hazard.

Temporary food service establishment shall mean any food service establishment which operates for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory gathering. There shall be two (2) types of temporary food service establishment licenses: one (1) shall be for those establishments that sell unopened prepackaged food, with a license period not to exceed three (3) months, and the other license shall be for establishments that sell or serve either food that is not prepackaged or prepackaged food that is opened prior to its sale, including the opening of one (1) or more prepackaged items for the purpose of providing free samples, with a license period not to exceed two (2) weeks.

- (b) Section 1.201.10.B shall be amended to add the following:

Base station shall mean a location used by a mobile food service establishment which shall be considered part of the food service establishment for the purpose of determining compliance with this article. The mobile unit and base station shall comply with all of the requirements of this article except those relating to toilet facilities, and the additional requirements herein set forth except as herein prescribed.

Food pantries shall mean an organization or entity that acquires, stores and distributes food to the needy in their community. Food pantries are typically supported by community food drives, umbrella organizations, as well as grocery stores, local agriculture, food manufacturers and other distributors. All items are pre-packaged, properly labeled, and no food preparation occurs. If bulk food packages are divided, they shall be in properly labeled, food safe containers.

Food processing establishment shall mean a commercial establishment in which food is processed or otherwise prepared and packaged only for sale to food service establishments and other retail outlets.

Ice cream truck shall mean a motorized vehicle utilized for the sale of prewrapped or prepackaged ice cream or frozen yogurt or ice cream or frozen yogurt products or novelties.

Innholder shall mean and include any person offering to the

public, generally, lodgings and food as the occasion requires where the person rents out four (4) or more rooms or cottages.

Mobile food service establishment shall mean and include only a food service establishment capable of movement over public or private ways which has all utilities and facilities contained within the unit regardless of whether it needs an outside power source or not which has no fixed location for the operation or transaction of business; and which is moved from one (1) location to a different location not less frequently than once every twelve (12) hours in any twenty-four (24) hour period in order to serve persons otherwise present at such locations at such times. For purposes of this ordinance, mobile food service establishments include, but are not limited to, pushcarts, food vending trucks and ice cream trucks.

Shelters shall mean an establishment providing temporary housing and meals for those in difficult domestic situations, as well as for homeless families and individuals. In addition many shelters provide referrals to other social service agencies. Shelters are often considered agencies of larger food banks or food share operations.

Stationary food vending unit shall mean any vending unit from which food products are sold and which is licensed for one (1) location on private property and conducts all of its sales from that one (1) location.

- (c) Section 1.201.10.B shall be amended to delete the following definitions:

Adulterated, ~~Certified food protection manager~~, Easily cleanable, Employee, Equipment, Food, Food-contact surface, Kitchenware, Poisonous or toxic materials, Potentially hazardous food, Sealed, Molluscan shellfish, Single-service articles, Tableware, and Utensil.

- (d) Section 3-603.11.B shall be amended as follows:

(B) Disclosure shall include:

(1) A description of the animal-derived Foods, such as "oysters on the halfshell (raw oysters)," "raw-Egg Caesar salad," and "hamburgers (can be cooked to order)" with an asterisk to a footnote that states that the items are served

raw or undercooked, or contain (or may contain) raw or undercooked ingredients; or

(2) Identification of the animal-derived Foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

(C) A reminder shall include asterisking the animal-derived Foods requiring Disclosure to a footnote that states:

(2) Consuming raw or undercooked Meats, Poultry, seafood, shellfish, or Eggs may increase your Risk of foodborne illness.

Sec. 11-5. Contaminated items of food or drink.

No person shall knowingly sell, offer for sale, or hold for sale in the city any unwholesome, stale, putrid, diseased, or otherwise contaminated items of food or drink, and shall make such immediate disposition of all items found in such condition as shall be ordered by the health authority.

State law reference(s)--Sale or possession of unwholesome food or drink, 17 M.R.S.A. § 3451 et seq.

Sec. 11-6. Application to food prepared outside city.

No person shall sell or bring into the city food prepared outside the city for sale by a food service establishment unless such food is prepared and handled in accordance with the requirements of this article. In determining whether such food is prepared or handled in accordance with the requirements of this article, the health inspector, shall accept reports from responsible authorities in such jurisdiction that such location complies with the provisions of this article.

Sec. 11-7. Right to enter.

The health inspector shall be permitted to enter any food service establishment during business hours for the purpose of making inspections and of copying any and all records of food purchases and payrolls. It shall be the duty of every person responsible for the management or control of such establishment to afford free access to every part of such establishment and to render all aid and assistance necessary to enable the health authority to make a full, thorough and complete examination thereof to determine compliance with this article. Records of purchases of food shall be held for a period of

three (3) months following the date of purchase either at the food service establishment or at another place where they are customarily kept and shall be made available to the health authority at the food service establishment within a reasonable time upon request.

Sec. 11-8. Handwashing facilities.

Handwashing sinks with hot and cold running water shall be provided in or convenient to toilet rooms and in no instance more than twenty five (25) feet from and easily accessible to the toilet room. Soap and sanitary towels or other approved drying facilities in suitable holders or dispensers shall be provided. Common towels are prohibited. No person shall resume work after using the toilet room without first washing his or her hands. If such handwashing sink is not located within ten (10) feet of the entrance to all food preparation rooms or areas, additional handwashing sinks with hot and cold running water, soap, and sanitary towels shall be provided in or within twenty five (25) feet and easily accessible to such food preparation rooms or areas. Durable, legible signs shall be posted conspicuously at each handwashing facility used by employees directing them to wash their hands before returning to work. Dishwashing vats, vegetable sinks and pot sinks shall not be approved as handwashing facilities for employees. Any self-closing, or metered faucet used shall be designed to provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet. Steam mixing valves are prohibited. Spring type faucets which require two (2) hands to operate are prohibited.

Sec. 11-9. Three-bay sink.

A three-bay sink shall be provided for such manual cleaning; each compartment shall be equipped with hot and cold running water and large enough to permit complete immersion of the largest utensil, and must be within twenty five (25) feet of and easily accessible to the food preparation area.

Sec. 11-10. Certified Food Protection Managers.

(a) A food service establishment must have at least one employee granted supervisory and management responsibility designated a Certified Food Protection Manager (CFPM) as defined in Section 1.201.10.B of Maine State Food Code 2013: Food Code adopted in Section 11-1, above. Proof of CFPM certification is required as follows:

- (1) Prior to the issuance of any new license required by Chapter 15;
- (2) Prior to the renewal of any license required by Chapter

15.

(3) Within 60 days of the date when a CFPM leaves employment;

(4) At the time of any inspection by the City's Health Inspector.

(b) Proof of compliance with the requirements of this section shall be provided to the City Food Inspector. Prior to the issuance of any license required by Chapter 15, the City Food Inspector must certify to the City Clerk's Office that the requirements of this Section have been met. Failure to provide proof of compliance with the requirements of this Section will be subject to a denial, suspension or revocation of a license in accordance with the provisions of Chapter 15. In addition to license suspension or revocation, violations of subsection 11-10(a)(3) & (4), above, shall result in a penalty to the violator of \$150.00.

Sec. 11-110. Ice cream trucks.

All ice cream trucks shall comply with the following:

- (a) *General regulations.* All ice cream trucks shall comply with all requirements of section 11-35, including the requirements for a base station, and all other requirements of this article except those relating to toilet facilities, in addition to the requirements set forth in this section.
- (b) *Permitted sales locations.* Ice cream trucks shall be limited to sales on or from public rights-of-way in city parks where vending is allowed or in residential zones only, where such public rights-of-way have a posted speed limit of twenty-five (25) miles per hour or less.
- (c) *Sales prohibited.* No ice cream truck shall stop at any time for the purpose of making sales if such stop is located within five hundred (500) feet of a licensed food service establishment.
- (d) *Length of stop.* No ice cream truck shall stop on a public right-of-way in a residential zone for more than fifteen (15) minutes. An ice cream truck shall operate its four-way flashers whenever stopped.
- (e) *Manner of stops.* Ice cream trucks shall pull over to the side of the public right-of-way as far as practicable when stopping for the purpose of selling. In no event shall an

ice cream truck stop for the purpose of selling if such a stop prevents the passage of other motor vehicles on the public right-of-way.

- (f) *Hours of operation.* Ice cream trucks shall only operate from 11:00 a.m. until 8:00 p.m.
- (g) *License, insurance required.* Each ice cream truck shall be required to be separately licensed under this article and to provide to the City Clerk evidence of public liability insurance in an amount of not less than four hundred thousand dollars (\$400,000.00) as amended, with the city named as an additional insured on the policy.
- (h) *Cost of licenses and expiration date.* The cost of a license for an ice cream truck and base station and the expiration date for such licenses shall be the same as those established in section 15-12 for a mobile food service establishment license and a base station license. Each base station shall be required to have one (1) base station license, even if more than one (1) truck utilizes the same base station.
- (i) *Passengers prohibited.* No ice cream truck shall carry any passenger not employed by or related to the license holder or driver.

| Sec. 11-112. Stationary food vending unit.

A stationary food vending unit shall be subject to the following regulations:

- (a) Only nonalcoholic beverages and prepackaged foods shall be sold from a stationary food vending unit, and there shall be no cooking in or near the unit.
- (b) An applicant for a stationary food vending unit license shall provide the City Clerk, in addition to any other information required by chapter 15, with acceptable proof of ownership or control of the property upon which the unit will be located. Such proof shall consist of a deed, lease or other written agreement.
- (c) An applicant for a stationary food vending unit license shall submit the following information for review by the health authority:
 - 1. A plan for waste disposal;

2. A plan for disposal of liquid waste, which shall not be allowed to run into the ground; and
 3. A plan for provision of restrooms for employees;
 4. The precise location and manner of proposed or existing electrical hookups, which must be done by a licensed master electrician, or the type and location of other proposed or existing power sources.
- (d) No stationary food vending unit shall be located within sixty-five (65) feet of any other licensed food establishment, including street vending units and mobile food service units.
- (e) The fees and the expiration date for a stationary food vending unit license shall be the same as those established in chapter 15 of this Code for mobile food service establishments, except that no base station or fee for a base station shall be required.
- (e) The location of any stationary food vending unit shall be subject to the applicable requirements of articles III and V of chapter 14 of this Code.

Sec. 11-123. Community kitchens.

- (a) A community kitchen shall mean a kitchen, licensed pursuant to this chapter, that is utilized by two or more entities at differing times for preparation of food to serve to the public off-site.
- (b) Not more than one entity may utilize the community kitchen at one time. Any time more than one entity is utilizing a kitchen licensed pursuant to this chapter, there must be a reasonable amount of time built in to the schedule to ensure the kitchen is cleaned prior to the next use.
- (c) Schedule and records: The schedule of the use of the community kitchen shall be prominently displayed in a conspicuous location at all times and all associated records shall be available for review by the health inspector at all times.
- (d) License required: Each entity utilizing a community kitchen shall procure a community kitchen license from the City Clerk's office.

Sec. 11-134. Penalties.

Following the issuance of a failed inspection notice and an order to correct violations, the health inspector will reinspect the premises at a fee of seventy five dollars (\$75.00); if the followup inspection results in another failed inspection, the violator will be charged a second re-inspection fee of one hundred fifty dollars (\$150.00). If the third reinspection results in a failed inspection, the third and each subsequent follow-up reinspection will result in a three hundred dollar (\$300.00) per reinspection charge. In addition, upon the third failed reinspection, the health inspector may order the establishment closed until the establishment yields a passing inspection.

The requirements set forth in this section shall apply to the entire chapter.

Sec. 11-145. Reserved.

Sec. 11-165. Reserved.

Sec. 11-176. Reserved.

Sec. 11-187. Reserved.

Sec. 11-198. Reserved.

Sec. 11-2019. Reserved.

Sec. 11-210. Reserved.

DIVISION 2. LICENSE*

Sec. 11-212. License Required.

No person shall operate any food service establishment within the city unless licensed to do so by the city.

Sec. 11-23. Pre-Operational Inspection.

~~Prior to applying for~~ All applications for food service establishment licenses must be accompanied by a certification, issued by the Health Inspector, certifying that the food service establishment has undergone a Pre-Operational Inspection and successfully demonstrated compliance with the provisions of this Chapter. The fee for the Pre-Operational Inspection required by this section shall be \$150.00. ~~a food service establishment license, and before any such license may be granted under Chapter 15, a food service establishment must~~

11-224. Hearing.

A hearing shall be held upon any original and any renewal application for a license required by this division.

Sec. 11-235. Suspensions and revocations.

Licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the clerk upon application, in writing, from the holder if the health inspector certifies to the clerk that he or she has reinspected the premises and the condition for which the suspension was imposed has been corrected.

Sec. 11-246. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.

Sec. 11-257 thru 11-457 Reserved.

~~DIVISION 2. LICENSE*~~

~~**Sec. 11-46. Required.**~~

~~No person shall operate any food service establishment within the city unless licensed to do so by the city.
(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)~~

~~**Sec. 11-47. Hearing.**~~

~~A hearing shall be held upon any original and any renewal application for a license required by this division.~~

~~**Sec. 11-48. Suspensions and revocations.**~~

~~Licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the clerk upon application, in writing, from the holder if the health inspector certifies to the clerk that he or she has reinspected the premises and the condition for which the suspension was imposed has been corrected.~~

~~**Sec. 11-49. General provisions to apply.**~~

~~Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.~~

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Michael Russell, Environmental Health and Safety Program Manager, Public Health Division, HHSD

DATE: 3/17/15

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: Changes to Code of Ordinances, Chapter 11 – Food and Food Handlers

SPONSOR: Passed unanimously at the March 10th Public Safety, Health and Human Services Committee meeting.

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading __April 6th__ **Final Action** __May 4th__

Can action be taken at a later date: __X__ Yes ____ No (If no why not?)

PRESENTATION: Michael Russell, verbal overview, 5 minutes.

I. SUMMARY OF ISSUE

We would like to adopt the 2013 Maine Food Code and make a few changes to Chapter 11 – Food and Food Handlers to better protect public health.

II. REASON FOR SUBMISSION

The reasons for submission are to: 1) Adopt the most recent version of the Maine Food Code, 2) specify the loss of hot water as an example of an Imminent Health Hazard (IHH), 3) clearly link raw food menu items and the reminder of the health risks, and 4) require businesses to show proof of a Certified Food Protection Manager (CFPM) before operating and during subsequent inspections.

III. INTENDED RESULT

The intended results are as follows: 1) adherence to the most current Maine Food Code; 2) clarification that the loss of hot water is an IHH to avoid confusion during an emergency; 3) visible linkage of raw food menu items to their potential health risks; and 4) maintenance of a common basic level of food safety knowledge throughout the life of a food business. These changes may also lower the number of related new foodborne illness cases, enhance the level of food safety, and reduce the amount of city staff time to pursue compliance.

IV. COUNCIL GOAL ADDRESSED

GOAL: Intergovernmental Collaboration – Adopting the most recent Maine Food Code will keep us in coordination with the Maine Center for Disease Control and Prevention. The other items will better protect public health, including visitors.

V. FINANCIAL IMPACT

Requiring new businesses to show proof of CFPM documentation prior to opening and during subsequent inspections will save the City Clerk's Office and the Public Health Division personnel hours and associated costs from pursuing compliance after the business opened and the certification has expired.

VI. STAFF ANALYSIS

Adopting the 2013 Maine Food Code will keep us current with the education and enforcement of food code regulations. Specifying the loss of hot water as an IHH will prevent any further confusion if an extended loss of water requires a complete loss of hot and cold water. More visibly linking the presence of raw food items on restaurant menus and the reminder of increased health risks from their consumption will raise the public's awareness and may lead to a decrease in the number of new foodborne illness cases. Finally, requiring proof of a CFPM before businesses opens and during subsequent inspections will save city staff time and assures that all new businesses start and maintain at least a common basic level of food safety knowledge.

VII. RECOMMENDATION

Approve.

VIII. LIST ATTACHMENTS

Amended Chapter 11 language.

Prepared by: Michael Russell, Environmental Health and Safety Program Manager, Public Health Division, HHSD

Date: 3/17/15

Chapter 11 FOOD AND FOOD HANDLERS*

*Cross reference(s)--Reinspection fees, Ch. 15; Farmers markets, Ch. 21.
State law reference(s)--Foods and drugs, 22 M.R.S.A. § 2151 et seq.

Art. I. In General, §§ 11-1--11-15

Art. II. Food Service Establishments, §§ 11-16--11-49

Div. 1. Generally, §§ 11-16--11-45

Div. 2. License, §§ 11-46--11-49

*Editor's Note: Pursuant to Council Order 94-12/13 passed on 11/19/12 Chapter 11 was repealed in its entirety and replaced with the following language.

ARTICLE I. IN GENERAL

Sec. 11-1. Adoption of Maine State Food Code 2001³: Food Code.

There is hereby adopted for the purpose of prescribing regulations to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented, a code known as the Maine State Food Code 2001³ (hereinafter "Food Code") recommended by the health authority, being particularly the 2001³ edition thereof and the whole thereof except for such portions, as are deleted, modified or amended by section 11-4 and which code shall be controlling within the limits of the City.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-2. Copies on file with the Clerk.

Pursuant to Title 30-A M.R.S.A. §3003, at least three (3) copies of the Maine State Food Code as adopted by reference by Section 11-1 above, have been and shall be on file in the office of the City Clerk for public inspection and use.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-3. Definitions.

Wherever the words "regulatory authority" are used in the Food Code, they should be held to mean the health inspector of the City of Portland or his or her duly authorized representative.

Wherever the word "municipality" is used in the Food Code, it shall mean the City of Portland.

(Ord. No. 94-12/13, 11-19-12)

ARTICLE II. FOOD SERVICE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 11-4. Amendments.

The Maine State Food Code 2013: Food Code adopted by section 11-1 is amended and modified in the following respects.

(a) Section 1.201.10.B shall be amended as follows:

Approved shall mean acceptable to the city health inspector as meeting the requirements of this article and conforming to good public health practices.

Food service establishment shall include any permanent, temporary or mobile establishment including any restaurant; caterer; innholder; buffet; lunchroom; grill room; lunch counter; tavern; dining room of a hotel; coffee shop; cafeteria; sandwich shop; soda fountain; in plant feeding establishment; private club; church feeding facility; school feeding facility; institutional feeding establishment; tea room; theater refreshment stand; grocery store; meat market; retail bakery store; delicatessen; bottle club; community kitchen; shelter; food pantry; or any other establishment where food or drink is prepared, served, kept, or stored for retail sale on-site. This definition shall not include as food service establishments private homes with permanent guests.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on: (a) The number of potential injuries, and (b) The nature, severity, and duration of the anticipated injury. Imminent Health Hazard includes, but is not limited to, the following: (1) an extended loss of water supply, (2) an extended power outage, (3) flood water or sewer back-up into the establishment, (4) fire, (5) a lack of hot water (minimum temperature of 100F for handwashing and 110F for warewashing) or (6) any other violation(s) that has/have the potential to pose an imminent threat to public health. Maine Food Code October 2013 Page 11 Failure to include other violations in this definition shall not be construed as a determination that other violations may not, in light of the circumstances, be found to pose an imminent health hazard. -

Temporary food service establishment shall mean any food service establishment which operates for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory gathering. There shall be two (2) types of temporary food service establishment licenses: one (1) shall be for those establishments that

Chapter 11 FOOD AND FOOD HANDLERS*

*Cross reference(s)--Reinspection fees, Ch. 15; Farmers markets, Ch. 21.
State law reference(s)--Foods and drugs, 22 M.R.S.A. § 2151 et seq.

Art. I. In General, §§ 11-1--11-15

Art. II. Food Service Establishments, §§ 11-16--11-49

Div. 1. Generally, §§ 11-16--11-45

Div. 2. License, §§ 11-46--11-49

*Editor's Note: Pursuant to Council Order 94-12/13 passed on 11/19/12 Chapter 11 was repealed in its entirety and replaced with the following language.

ARTICLE I. IN GENERAL

Sec. 11-1. Adoption of Maine State Food Code 20013: Food Code.

There is hereby adopted for the purpose of prescribing regulations to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented, a code known as the Maine State Food Code 20013 (hereinafter "Food Code") recommended by the health authority, being particularly the 20013 edition thereof and the whole thereof except for such portions, as are deleted, modified or amended by section 11-4 and which code shall be controlling within the limits of the City.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-2. Copies on file with the Clerk.

Pursuant to Title 30-A M.R.S.A. §3003, at least three (3) copies of the Maine State Food Code as adopted by reference by Section 11-1 above, have been and shall be on file in the office of the City Clerk for public inspection and use.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-3. Definitions.

Wherever the words "regulatory authority" are used in the Food Code, they should be held to mean the health inspector of the City of Portland or his or her duly authorized representative.

Wherever the word "municipality" is used in the Food Code, it shall mean the City of Portland.

(Ord. No. 94-12/13, 11-19-12)

ARTICLE II. FOOD SERVICE ESTABLISHMENTS

DIVISION 1. GENERALLY

Sec. 11-4. Amendments.

The Maine State Food Code 2001¹³: Food Code adopted by section 11-1 is amended and modified in the following respects.

(a) Section 1.201.10.B shall be amended as follows:

Approved shall mean acceptable to the city health inspector as meeting the requirements of this article and conforming to good public health practices.

Food service establishment shall include any permanent, temporary or mobile establishment including any restaurant; caterer; innholder; buffet; lunchroom; grill room; lunch counter; tavern; dining room of a hotel; coffee shop; cafeteria; sandwich shop; soda fountain; in plant feeding establishment; private club; church feeding facility; school feeding facility; institutional feeding establishment; tea room; theater refreshment stand; grocery store; meat market; retail bakery store; delicatessen; bottle club; community kitchen; shelter; food pantry; or any other establishment where food or drink is prepared, served, kept, or stored for retail sale on-site. This definition shall not include as food service establishments private homes with permanent guests.

"Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent injury based on: (a) The number of potential injuries, and (b) The nature, severity, and duration of the anticipated injury. Imminent Health Hazard includes, but is not limited to, the following: (1) an extended loss of water supply, (2) an extended power outage, (3) flood water or sewer back-up into the establishment, (4) fire, (5) a lack of hot water (minimum temperature of 100F for handwashing and 110F for warewashing) or (6) any other violation(s) that has/have the potential to pose an imminent threat to public health. Maine Food Code October 2013 Page 11 Failure to include other violations in this definition shall not be construed as a determination that other violations may not, in light of the circumstances, be found to pose an imminent health hazard. -

Temporary food service establishment shall mean any food service establishment which operates for a temporary period of time in connection with a fair, carnival, circus, public exhibition or similar transitory gathering. There shall be two (2) types of temporary food service establishment licenses: one (1) shall be for those establishments that

sell unopened prepackaged food, with a license period not to exceed three (3) months, and the other license shall be for establishments that sell or serve either food that is not prepackaged or prepackaged food that is opened prior to its sale, including the opening of one (1) or more prepackaged items for the purpose of providing free samples, with a license period not to exceed two (2) weeks.

(b) Section 1.201.10.B shall be amended to add the following:

Base station shall mean a location used by a mobile food service establishment which shall be considered part of the food service establishment for the purpose of determining compliance with this article. The mobile unit and base station shall comply with all of the requirements of this article except those relating to toilet facilities, and the additional requirements herein set forth except as herein prescribed.

Food pantries shall mean an organization or entity that acquires, stores and distributes food to the needy in their community. Food pantries are typically supported by community food drives, umbrella organizations, as well as grocery stores, local agriculture, food manufacturers and other distributors. All items are pre-packaged, properly labeled, and no food preparation occurs. If bulk food packages are divided, they shall be in properly labeled, food safe containers.

Food processing establishment shall mean a commercial establishment in which food is processed or otherwise prepared and packaged only for sale to food service establishments and other retail outlets.

Ice cream truck shall mean a motorized vehicle utilized for the sale of prewrapped or prepackaged ice cream or frozen yogurt or ice cream or frozen yogurt products or novelties.

Innholder shall mean and include any person offering to the public, generally, lodgings and food as the occasion requires where the person rents out four (4) or more rooms or cottages.

Mobile food service establishment shall mean and include only a food service establishment capable of movement over public or private ways which has all utilities and facilities contained within the unit regardless of whether it needs an outside power source or not which has no fixed location for the operation or transaction of business; and which is moved from one (1) location to a different location not less frequently than once every twelve (12) hours in any twenty-four (24) hour period in order to serve persons otherwise present at such locations at such times. For purposes of this ordinance,

mobile food service establishments include, but are not limited to, pushcarts, food vending trucks and ice cream trucks.

Shelters shall mean an establishment providing temporary housing and meals for those in difficult domestic situations, as well as for homeless families and individuals. In addition many shelters provide referrals to other social service agencies. Shelters are often considered agencies of larger food banks or food share operations.

Stationary food vending unit shall mean any vending unit from which food products are sold and which is licensed for one (1) location on private property and conducts all of its sales from that one (1) location.

(c) Section 1.201.10.B shall be amended to delete the following definitions:

~~Adulterated, Certified food protection manager, Easily cleanable, Employee, Equipment, Food, Food-contact surface, Kitchenware, Poisonous or toxic materials, Potentially hazardous food, Sealed, Molluscan shellfish, Single-service articles, Tableware, and Utensil.~~
(Ord. No. 94-12/13, 11-19-12)

(d) Section 3-603.11.B shall be amended as follows:

(B) Disclosure shall include:

(1) A description of the animal-derived Foods, such as "oysters on the halfshell (raw oysters)," "raw-Egg Caesar salad," and "hamburgers (can be cooked to order)" with an asterisk to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients; or

(2) Identification of the animal-derived Foods by asterisking them to a footnote that states that the items are served raw or undercooked, or contain (or may contain) raw or undercooked ingredients.

(C) A reminder shall include asterisking the animal-derived Foods requiring Disclosure to a footnote that states:

(2) Consuming raw or undercooked Meats, Poultry, seafood, shellfish, or Eggs may increase your Risk of foodborne illness.

Sec. 11-5. Contaminated items of food or drink.

No person shall knowingly sell, offer for sale, or hold for sale in the city any unwholesome, stale, putrid, diseased, or otherwise contaminated items of food or drink, and shall make such immediate disposition of all items found in such condition as shall be ordered by the health authority.
(Ord. No. 94-12/13, 11-19-12)

State law reference(s) -- Sale or possession of unwholesome food or drink, 17 M.R.S.A. § 3451 et seq.

Sec. 11-6. Application to food prepared outside city.

No person shall sell or bring into the city food prepared outside the city for sale by a food service establishment unless such food is prepared and handled in accordance with the requirements of this article. In determining whether such food is prepared or handled in accordance with the requirements of this article, the health inspector, shall accept reports from responsible authorities in such jurisdiction that such location complies with the provisions of this article.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-7. Right to enter.

The health inspector shall be permitted to enter any food service establishment during business hours for the purpose of making inspections and of copying any and all records of food purchases and payrolls. It shall be the duty of every person responsible for the management or control of such establishment to afford free access to every part of such establishment and to render all aid and assistance necessary to enable the health authority to make a full, thorough and complete examination thereof to determine compliance with this article. Records of purchases of food shall be held for a period of three (3) months following the date of purchase either at the food service establishment or at another place where they are customarily kept and shall be made available to the health authority at the food service establishment within a reasonable time upon request.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-8. Handwashing facilities.

Handwashing sinks with hot and cold running water shall be provided in or convenient to toilet rooms and in no instance more than twenty five (25) feet from and easily accessible to the toilet room. Soap and sanitary towels or other approved drying facilities in suitable holders or dispensers shall be provided. Common towels are prohibited. No person shall resume work after using the toilet room without first washing his or her hands. If such handwashing sink is not located within ten (10) feet of the entrance to all food preparation rooms or areas, additional handwashing sinks with hot and cold running water, soap, and sanitary towels shall be provided in or within twenty five (25) feet and easily accessible to such food preparation rooms or areas. Durable, legible signs shall be posted conspicuously at each handwashing facility used by employees directing them to wash their hands before returning to work. Dishwashing vats, vegetable sinks and pot sinks shall not be approved as handwashing facilities for employees. Any self-closing, or metered faucet used shall be designed to provide a flow of water for at least fifteen (15) seconds without the need to reactivate the faucet. Steam mixing valves are prohibited. Spring type faucets which require two (2) hands to operate are prohibited.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-9. Three-bay sink.

A three-bay sink shall be provided for such manual cleaning; each compartment shall be equipped with hot and cold running water and large enough to permit complete immersion of the largest utensil, and must be within twenty five (25) feet of and easily accessible to the food preparation area.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-10. Certified Food Protection Managers.

(a) A food service establishment must have at least one employee granted supervisory and management responsibility designated a Certified Food Protection Manager (CFPM) as defined in Section 1.201.10.B of Maine State Food Code 2013: Food Code adopted in Section 11-1, above. Proof of CFPM certification is required as follows:

- (1) Prior to the issuance of any new license required by Chapter 15;
- (2) Prior to the renewal of any license required by Chapter 15.
- (3) Within 60 days of the date when a CFPM leaves employment;
- (4) At the time of any inspection by the City's Health Inspector.

(b) Proof of compliance with the requirements of this section shall be provided to the City Food Inspector. Prior to the issuance of any license required by Chapter 15, the City Food Inspector must certify to the City Clerk's Office that the requirements of this Section have been met. Failure to provide proof of compliance with the requirements of this Section will be subject to a denial, suspension or revocation of a license in accordance with the provisions of Chapter 15. In addition to license suspension or revocation, violations of subsection 11-10(a) (3) & (4), above, shall result in a penalty to the violator of \$150.00.

Sec. 11-110. Ice cream trucks.

All ice cream trucks shall comply with the following:

(a) *General regulations.* All ice cream trucks shall comply with all requirements of section 11-35, including the requirements for a base station, and all other requirements of this article except those relating to toilet facilities, in addition to the requirements set forth in this section.

(b) *Permitted sales locations.* Ice cream trucks shall be limited to sales on or from public rights-of-way in city parks where vending is allowed or in residential zones only, where such public rights-of-way have a posted speed limit of twenty-five (25) miles per hour or less.

(c) *Sales prohibited.* No ice cream truck shall stop at any time for the purpose of making sales if such stop is located within five hundred (500) feet of a licensed food service establishment.

(d) *Length of stop.* No ice cream truck shall stop on a public right-of-way in a residential zone for more than fifteen (15) minutes. An ice cream truck shall operate its four-way flashers whenever stopped.

(e) *Manner of stops.* Ice cream trucks shall pull over to the side of the public right-of-way as far as practicable when stopping for the purpose of selling. In no event shall an ice cream truck stop for the purpose of selling if such a stop prevents the passage of other motor vehicles on the public right-of-way.

(f) *Hours of operation.* Ice cream trucks shall only operate from 11:00 a.m. until 8:00 p.m.

(g) *License, insurance required.* Each ice cream truck shall be required to be separately licensed under this article and to provide to the City Clerk evidence of public liability insurance in an amount of not less than four hundred thousand dollars (\$400,000.00) as amended, with the city named as an additional insured on the policy.

(h) *Cost of licenses and expiration date.* The cost of a license for an ice cream truck and base station and the expiration date for such licenses shall be the same as those established in section 15-12 for a mobile food service establishment license and a base station license. Each base station shall be required to have one (1) base station license, even if more than one (1) truck utilizes the same base station.

(i) *Passengers prohibited.* No ice cream truck shall carry any passenger not employed by or related to the license holder or driver.
(Ord. No. 94-12/13, 11-19-12)

Sec. 11-142. Stationary food vending unit.

A stationary food vending unit shall be subject to the following regulations:

(a) Only nonalcoholic beverages and prepackaged foods shall be sold from a stationary food vending unit, and there shall be no cooking in or near the unit.

(b) An applicant for a stationary food vending unit license shall provide the City Clerk, in addition to any other information required by chapter

15, with acceptable proof of ownership or control of the property upon which the unit will be located. Such proof shall consist of a deed, lease or other written agreement.

(c) An applicant for a stationary food vending unit license shall submit the following information for review by the health authority:

1. A plan for waste disposal;
2. A plan for disposal of liquid waste, which shall not be allowed to run into the ground; and
3. A plan for provision of restrooms for employees;
4. The precise location and manner of proposed or existing electrical hookups, which must be done by a licensed master electrician, or the type and location of other proposed or existing power sources.

(d) No stationary food vending unit shall be located within sixty-five (65) feet of any other licensed food establishment, including street vending units and mobile food service units.

(e) The fees and the expiration date for a stationary food vending unit license shall be the same as those established in chapter 15 of this Code for mobile food service establishments, except that no base station or fee for a base station shall be required.

(f) The location of any stationary food vending unit shall be subject to the applicable requirements of articles III and V of chapter 14 of this Code.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-123. Community kitchens.

(a) A community kitchen shall mean a kitchen, licensed pursuant to this chapter, that is utilized by two or more entities at differing times for preparation of food to serve to the public off-site.

(b) Not more than one entity may utilize the community kitchen at one time. Any time more than one entity is utilizing a kitchen licensed pursuant to this chapter, there must be a reasonable amount of time built in to the schedule to ensure the kitchen is cleaned prior to the next use.

(c) Schedule and records: The schedule of the use of the community kitchen shall be prominently displayed in a conspicuous location at all times and all associated records shall be available for review by the health inspector at all times.

(d) License required: Each entity utilizing a community kitchen shall procure a community kitchen license from the City Clerk's office.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-134. Penalties.

Following the issuance of a failed inspection notice and an order to correct violations, the health inspector will reinspect the premises at a fee of seventy five dollars (\$75.00); if the followup inspection results in another failed inspection, the violator will be charged a second re-inspection fee of one hundred fifty dollars (\$150.00). If the third reinspection results in a failed inspection, the third and each subsequent follow-up reinspection will result in a three hundred dollar (\$300.00) per reinspection charge. In addition, upon the third failed reinspection, the health inspector may order the establishment closed until the establishment yields a passing inspection.

The requirements set forth in this section shall apply to the entire chapter.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-145. Reserved.

Sec. 11-165. Reserved.

Sec. 11-176. Reserved.

Sec. 11-187. Reserved.

Sec. 11-198. Reserved.

Sec. 11-2019. Reserved.

Sec. 11-210. Reserved.

DIVISION 2. LICENSE*

*Cross reference(s) -- Licenses and permits generally, Ch. 15.

Sec. 11-212. License Required.

No person shall operate any food service establishment within the city unless licensed to do so by the city.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-23. Pre-Operational Inspection.

~~Prior to applying for~~ All applications for food service establishment licenses must be accompanied by a certification, issued by the Health Inspector, certifying that the food service establishment has undergone a Pre-Operational Inspection and successfully demonstrated compliance with the provisions of this Chapter. The fee for the Pre-Operational Inspection required by this section shall be \$150.00. ~~a food service establishment license, and before any such license may be granted under Chapter 15, a food service establishment must~~

11-224. Hearing.

A hearing shall be held upon any original and any renewal application for a license required by this division.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-235. Suspensions and revocations.

Licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the clerk upon application, in writing, from the holder if the health inspector certifies to the clerk that he or she has reinspected the premises and the condition for which the suspension was imposed has been corrected.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-246. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this division.

(Ord. No. 94-12/13, 11-19-12)

Sec. 11-257 thru 11-457 Reserved.

DIVISION 2. LICENSE*

~~*Cross reference(s) Licenses and permits generally, Ch. 15.~~

~~Sec. 11-46. Required.~~

~~No person shall operate any food service establishment within the city unless licensed to do so by the city.~~

~~(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)~~

~~Sec. 11-47. Hearing.~~

~~A hearing shall be held upon any original and any renewal application for a license required by this division.~~

~~(Code 1968, § 905.1; Ord. No. 231-80, 12-22-80)~~

~~Sec. 11-48. Suspensions and revocations.~~

~~Licenses shall be suspended or revoked pursuant to chapter 15, except that a license which has been suspended may be reinstated by the clerk upon application, in writing, from the holder if the health inspector certifies to the clerk that he or she has reinspected the premises and the condition for which the suspension was imposed has been corrected.~~

~~(Code 1968, § 905.3; Ord. No. 231-80, 12-22-80; Ord. No. 94-12/13, 11-19-12)~~

~~Sec. 11-49. General provisions to apply.~~

~~Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this~~

~~division.~~

~~(Code 1968, § 905.23, Ord. No. 231-80, 12-22-80)~~

~~—~~

DRAFT

Order 309-14/15
Tab 36 4-6-15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
Re: R-6 and R-6A Zones**

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

That Chapter 14, Article III, Sections 14-47, 14-136, 14-139, 14-140, 14-332, 14-332.1, 14-433, and Article V., Section 14-526, of the Portland City Code are hereby amended to read as follows:

DIVISION 1. GENERALLY

Sec. 14-47. Definitions.

The following words shall be defined as set forth below for use in this article. Definitions set forth in the building code of the city shall apply to words not herein defined:

...

~~Lot: Except when reference is made herein to a lot of record, a lot is a single tract of land located within a single block which at the time of filing for a building permit or certificate of occupancy is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. A parcel or area of land that is designated as an individual unit for use, development or ownership that is either a) a lot of record, recorded in the Cumberland County Registry of Deeds; or b) a contiguous combination of such lots of record under common ownership; or c) a newly established parcel meeting all the dimensional requirements of the zone in which it is located.~~

...

Sec. 14-136. Permitted uses.

The following uses are permitted in the R-6 and R-6A residential zones:

(a) *Residential:*

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section article V (site plan) of this chapter shall be altered to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with article V (site plan) of this chapter or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this five-year period, shall be reviewed as a pursuant to article V of this chapter.
2. Multifamily dwellings. ~~_, provided that any alteration of a structure in residential use on December 2, 1987:~~
 - ~~a. Shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and~~
 - ~~b. Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic;~~
 - ea. Parking shall be provided in compliance with Division 20 of this Article.

~~eb.~~ No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.

~~ec.~~ The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.

~~ed.~~ An owner, manager or operator shall live in the building as a permanent resident.

~~ee.~~ The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

10. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

...

Sec. 14-139. Dimensional requirements.

(a) In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-6 and R-6A zones shall meet or exceed the following minimum requirements:

~~1. Minimum lot size:~~

~~a. Residential in the R-6: Forty-five hundred (4,500) square feet, except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.~~

~~b. Residential in the R-6A: Four (4) acres.~~

~~c. Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine~~

~~(9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.~~

d. ~~Intermediate care facility: One (1) acre.~~

e. ~~School: Thirty thousand (30,000) square feet.~~

f. ~~Places of assembly:~~

Large	30,000 sq. ft.
Medium	15,000 sq. ft.
Small	7,500 sq. ft.

g. ~~Municipal use: Forty-five hundred (4,500) square feet.~~

h. ~~Hospital: Two (2) acres.~~

i. ~~All other uses: Forty-five hundred (4,500) square feet.~~

j. ~~Lodging house: Four thousand five hundred (4,500) square feet.~~

2. ~~a. Minimum area per dwelling unit: One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.~~

b. ~~Minimum rooming unit areas for lodging houses: Two hundred (200) square feet of combined rooming unit and common area for each rooming unit. Each individual rooming unit shall be a minimum of eighty (80) square feet.~~

c. ~~Minimum land area per lodging house rooming unit: Two hundred fifty (250) square feet.~~

d. ~~Minimum land area per intermediate care facility resident: Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three~~

~~hundred fifty (350) square feet for each additional resident.~~

~~3. Minimum street frontage: Forty (40) feet.~~

~~4. Minimum yard dimensions: (Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)~~

~~a. Front yard:~~

~~Principal or accessory structures: Ten (10) feet.~~

~~A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.~~

~~b. Rear yard:~~

~~i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.~~

~~ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~c. Side yard:~~

~~i. Side yard in R-6: Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~Height of Structure — Required Side Yard~~

~~1 story 10 feet~~

~~2 stories 10 feet~~

~~3 stories 10 feet~~

~~4 stories 12 feet~~

~~5 stories 15 feet~~

~~The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.~~

~~ii. Detached accessory structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~iv. Side yard in R-6A: Principal structure height up to forty-five (45 feet): 10 feet. Principal structure height greater than forty-five (45 feet): 15 feet.~~

~~d. Side yard on side streets:~~

~~i. Principal or accessory structures: Ten (10) feet.~~

~~5. Maximum lot coverage: Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.~~

~~6. Minimum lot width: Forty (40) feet.~~

~~7. Maximum structure height:~~

~~2. Maximum structure height R-6: Principal and attached accessory structure: Forty-five (45) feet.~~

~~Accessory detached structure: Eighteen (18) feet.~~

~~b. Maximum structure height in R-6A: Principal and attached accessory structure: Sixty-five (65) feet on off-peninsula parcels.~~

~~Accessory detached structure: Eighteen (18) feet~~

~~8. Open space ratio:~~

~~a. Uses other than bed and breakfast. Twenty (20) percent. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.~~

~~b. Bed and breakfasts. A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for site plan shall not reduce the open space on the lot below twenty (20) percent of the lot area. A bed and breakfast located on a lot that does not have at least twenty (20) percent open space on the date of filing of the application for site plan review, and that is legally noneonforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for site plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.~~

~~9. A below-grade dwelling unit shall be permitted only if the primary access for the dwelling unit is provided directly to the outside of the building.~~

~~10. Minimum gross floor area for bed and breakfasts: Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.~~

~~11. Maximum floor area for places of assembly on a collector or arterial road:~~

Large	Not limited
Medium	4,500 sq. ft.
Small	2,250 sq. ft.

~~12. Maximum floor area for places of assembly not on a collector or arterial road:~~

Large	4,500 sq. ft.
Medium	2,250 sq. ft.
Small	1,125 sq. ft.

~~(b) Small residential lot development: Residential uses on small, vacant lots located in the R-6 are subject to site plan review and may use the dimensional requirements below if all of the following conditions are met:~~

~~The lot is:~~

~~Vacant or is used exclusively for parking or contains structure not used for residential purposes as of January 1, 2005; and the lot existed as of January 1, 2005.~~

~~1. Minimum lot size: None~~

~~2. Maximum lot size: Ten thousand (10,000) square feet.~~

~~3. Yard dimensions:~~

~~a. Front yard:~~

~~No more than ten (10) feet.~~

~~b. Rear yard:~~

~~None, except that rear yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the abutting~~

~~buildings and proposed buildings divided by five (5), whichever is greater; and that either the rear~~

~~yard or one of the side yards shall be at least fifteen (15) feet; provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line.~~

~~c. Side yard:~~

~~None, except that side yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the existing buildings and proposed buildings divided by five (5), whichever is greater and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; Provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line. On a corner lot no side yard is required on that side of the lot which abuts any street. A principal structure on a corner lot shall not be more than ten (10) feet from the street.~~

~~4. Minimum principal structure height: Two (2) stories of living space above the grade of the adjacent street frontage, except for porches, entryways, attached garages and accessory detached structures.~~

~~5. Maximum principal structure height: Forty five (45) feet.~~

~~6. Open space requirement: All lots used for residential purposes shall provide an attached exterior deck, porch, patio or balcony for each dwelling unit, except where a designated open space equal to ten (10) percent or more of the lot area is located on site and maintained as open space, then the number of exterior decks, porches, patios or balconies may be reduced by up to fifty (50) percent. The designated open space, if provided, shall have a minimum width and length of at least fifteen (15) feet, a slope of no greater than ten (10) percent and shall be used exclusively as recreational open space i.e. it shall not be used for vehicular circulation, parking, etc.. All required decks, porches, patios or balconies shall meet the requirements of the Planning and Development Design Manual.~~

~~7. Minimum lot width: None.~~

~~8. Minimum land area per dwelling: Seven hundred and twenty-five (725) square feet.~~

R-6 Dimensional Requirements	
Minimum Lot Size	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres. Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres. Intermediate care facility: One (1) acre. School: Thirty thousand (30,000) square feet. Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf. Hospital: Two (2) acres All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f
Minimum land area per intermediate care facility resident	250 s.f
Minimum land area per permitted hostel guest when maxi	250 s.f
Street Frontage	20 feet
Minimum Front Yard Setback for Principal and Accessory Structures	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet. All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback. Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft. in height.
Side Yard on Side Street	None
Structure Stepbacks	Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. <i>Does not apply to side yards on side streets.</i>
Maximum Lot Coverage	60%
Minimum Lot Width	20 feet
Maximum Height	Principal and attached accessory structure: 45 ft Detached accessory structure: 18 ft In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	<i>On a collector or arterial road:</i> Large: Not limited Medium: 4,500 s.f. Small: 2,250 s.f. <i>Not on a collector or arterial road:</i> Large: 4,500 s.f. Medium: 2,250 s.f. Small: 1,125 s.f.
Maximum Garage Opening	Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.

(b)- Townhouse Subdivisions

Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side yard requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size, width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.

G-(c) Alterations to Single-family, two-family, and multi-family dwellings in existence as of (date of enactment) shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic.

Sec. 14-140. Other requirements.

(a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article, except that required parking for residential building additions shall be located on the same lot.

~~For small, vacant lots which meet, and are developed under, the dimensional standards of 14-139(2) above, the following off-street parking requirements shall apply:~~

- ~~1. One (1) parking space per dwelling unit is required and shall be located on the same lot; and~~
- ~~2. The technical and Design Standards for driveway design for one and two-family buildings (Section II, Traffic Design Standards and Guidelines) shall apply to projects with up to four units and with no more than four parking spaces;~~

(b) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(c) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

~~(d) Small residential lot development shall conform to the Site Plan standards of §14-526.~~

...

Sec. 14-332. Uses requiring off-street parking.

Except as provided in Section 14-332.1, 14-332.2 (exceptions) and 14-345 (fee in-lieu of parking) of this division, for the uses listed below the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

(a) *Residential structures:*

1. For new construction, two, (2) parking spaces for each dwelling unit, ~~plus one (1) additional parking space for every six (6) units or fraction thereof.~~
2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.

~~3. For residential development on the peninsula (southerly of I-295) and in R-6 and R-6A zones:~~

~~a. One (1) space per unit;~~

~~b. The required parking for multi-unit residential buildings may be partially met through provision of shared use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use; and~~

~~c. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.~~

43. For residential development in the B-2, B-2b, B-2c zones:

a. One (1) parking space per dwelling unit.

(b) *Motel*: One (1) parking space for each sleeping room.

(c) *Hotels*: One (1) parking space for each four (4) guest rooms.

...

Sec. 14-332.1. Zone specific off-street parking exceptions and modifications.

The off-street parking requirements established for uses, established above in section 14-332 of this division, are hereby modified for the following zones ~~a~~ according to the provisions described below.

...

(k) R-6 and R-6A zones: residential development, including new construction, alterations increase the number of units, and changes of use on the peninsula (southerly of I-295 and Tukey's Bridge).

1. Except as provided below, there shall be one (1) space per unit

2. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.

3. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.

4.4. No parking shall be required for the first three units in the R-6 Residential Zone.

5. For alterations of buildings containing three or more dwelling units in the R-6 zone no

parking shall be required for the creation of one additional dwelling unit above existing conditions as of [effective date of this amendment]. This exemption may be utilized one time.

...

Sec. 14-433. Lots of record and accessory structure setbacks for existing buildings.

(a) Lots of Record.

Lots of record that meet the minimum standards provided below shall be considered buildable lots.

1. Any lot~~Lots~~ of record as of June 5, 1957, may be considered a buildable lot in any residential zone provided the applicable yard dimensions can be met; and held under separate and distinct ownership from adjacent lots and provided that a minimum having a street frontage of forty (40) feet can be met, or to which a means of access has been previously approved by the city council as provided elsewhere in this article; , may be considered a buildable lot in any residential zone except as provided below for island residential zones, and provided such lots have with a minimum lot size of five thousand (5,000) square feet, except that a lot in the R-6 zone may have a minimum lot size of three thousand (3,000) square feet, or the applicable minimum lot size and frontage in that zone, whichever is less provided that the applicable yard dimensions can be met.
2. A lot in the R-1, R-2, R-3, R-4, R-5, R-5A or R-6 zones that was described in a subdivision plat approved by the Planning Board after June 5, 1981, or a lot of record that conformed to the applicable lot size requirement, lot width and street frontage as of June 5, 1984, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.

3. Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.
4. A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.
5. Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d).

(b) Accessory Structures and Building Additions.

Where such a lot has a principal structure which existed as of July 19, 1988, an accessory structure or building addition may be located within the following side and rear yards, provided that the normal applicable yard requirements cannot be met ~~provided, however, that less restrictive zoning requirements which meet the requirements contained within 14-139(b) for residential small lot development shall apply:~~

a1. R-1, R-2:

Rear yard: Ten (10) feet.

Side yard: Five (5) feet.

b2. R-3, R-4, R-5, R-5A, R-6:

Rear yard: Five (5) feet.

Side yard: Five (5) feet.

(c) Conversion of Accessory Structures to Dwelling Units:

Any detached or accessory structure in the R-4 or R-6 zones, with a ground coverage exceeding two hundred fifty (250) square feet and which was in existence on January 1, 1940, may be converted to dwelling uses without meeting front, side or rear yard set-backs, provided there is no enlargement of any nonconforming portion of the existing building footprint and provided the conversion will conform to the minimum land area per dwelling unit.

Any such conversion in the R-3 zone or on a nonconforming lot in the R-5 zone shall be a conditional use subject to the requirements of section 14-88(a)2 for lots in the R-3 zone, or to the requirements of section 14-118(a)5 for nonconforming lots in the R-5 zone, and shall be in lieu of any additional dwelling units authorized under sections 14-88 or 14-118.

~~Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.~~

~~A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.~~

...

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:

...

(vi) Residential Development in the following districts:

- (a) Planned Residential Unit Developments (PRUDS) in the R3, R5 and R5a residential zones;
- (b) Multiple family and multiplex developments in the R5 zone;
- (c) Small residential lot development of single family homes in the R5 zone;
- (d) ~~Multiple family and multiplex~~All residential development in the R6 zone ~~on lots of 10,000 square feet or less.~~

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Alex Jaegerman, Planning Division Director

DATE: March 25, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: R-6 Residential Zone Text Amendments

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading__April 6th **Final Action**__April 22nd__

Can action be taken at a later date: ☒ **Yes** ☐ **No (If no why not?)**

PRESENTATION: Planning Board Chair Stuart O'Brien will make a five minute presentation.

I. SUMMARY OF ISSUE (Agenda Description)

The Planning Board recommends text amendments to the R-6 Residential zone. These include changes to the existing dimensional standards, parking standards, clarifying language linking the R-6 standards to the Design Manual for review of residential projects; standards regarding lots of record, and elimination of the small residential lot development provision. Changes also include a conversion of the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

As the dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, East Bayside, Bayside, and Libbytown. These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone. Though the pattern of the peninsula's built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. Current zoning renders the vast majority of parcels in the R-6 zone non-conforming. These changes bring Portland's zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners.

III. INTENDED RESULT

The objectives of these changes are to allow for a pattern of development that provides for greater housing opportunities, enables infill development on small parcels, and to have standards in place that make it possible for new construction to be consistent with the historic pattern of development on the peninsula.

IV. COUNCIL GOAL ADDRESSED

These amendments are consistent with the City Council Common Goals and Objectives for 2014, which calls for the zoning ordinance to allow for greater housing opportunities: *Promote Housing Availability: Provide increased availability in all segments of the housing market while insuring that there is suitable balance of housing opportunities among those sectors.* A specific housing objective states: *Complete draft rewrites of the R-6, R-7 and B-2 portions of the zoning ordinance to allow for greater housing opportunities and present to Planning Board and Housing and Community Development Committee for review and recommendations to City Council.*

V. FINANCIAL IMPACT

There are no known municipal financial impacts associated with this amendment.

VI. STAFF ANALYSIS

The review found the proposed text amendments consistent with the Comprehensive Plan.

VII. RECOMMENDATION

On March 10, 2015, the Planning Board voted unanimously, 6-0 (Dundon absent) to recommend the proposed R-6 zoning and related amendments to the Land Use Code to the City Council, incorporating parking option 1 (first three spaces exempt) and option 4 (one additional space exempt), finding them consistent with the Comprehensive Plan and recommending adoption of the proposed amendment.

VIII. LIST ATTACHMENTS

1. Planning Board Report to City Council

Prepared by: Christine Grimando

Date: March 25, 2015



CITY COUNCIL REPORT from PLANNING BOARD PORTLAND, MAINE

REVISIONS TO R-6 RESIDENTIAL ZONING TEXT CITY OF PORTLAND, APPLICANT

Submitted to: Portland City Council First Reading: April 6, 2015 Second Reading: April 22, 2015	Prepared by: Portland Planning Board Date: March 25, 2015
---	--

I. INTRODUCTION

On March 10, 2014, the Planning Board voted unanimously (6-0, Dundan absent) to recommend text amendments to the R-6 zone to the City Council. These changes are primarily concerned with the dimensional requirements of the zone and parking standards. The provision for *small residential lot development*, enacted in 2005, is also proposed for elimination. Changes are also proposed to clarify standards for lots of record. Finally, an important aspect of the changes is to convert the dimensional requirements from a descriptive listing to a table format, shortening and simplifying the overall text of the ordinance. The Planning Board held three workshops on this topic in addition to the Public Hearing, on October 28th, November 25th, and January 20th.

Legal notice for the April 22nd City Council hearing will be posted in the *Portland Press Herald* on April 6th and April 13th. Notices will be sent to the interested citizen list and posted on the city's web page.

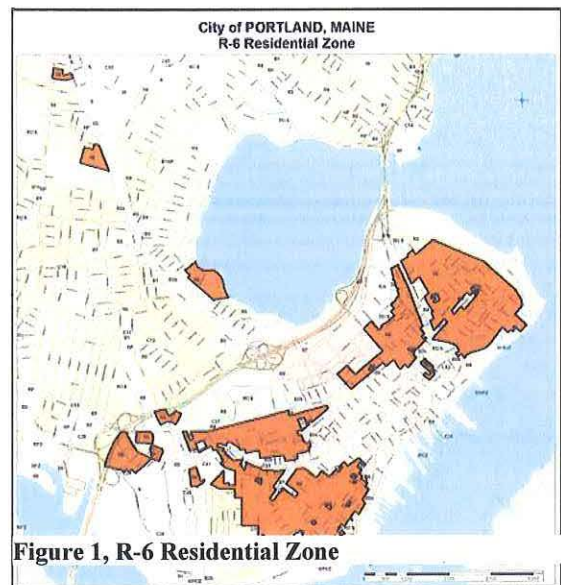


Figure 1, R-6 Residential Zone

II. BACKGROUND

The objective of these changes is provide for greater housing opportunities while enabling infill development on small parcels and greater flexibility for alterations of existing properties, and to have standards in place that make it possible for new construction to be consistent with the historic pattern of development on the peninsula.

In Spring of 2014 the Planning Department proposed an area of East Bayside be rezoned from R-6 to R-7, in response to repeated feedback that R-6 was not conducive to many new construction proposals. Staff at the time

felt R-7 could be more widely implemented in certain areas to preempt some applications for zone changes. Staff also discussed the fact that they were also looking into changes to the R-6 zone to make it a more viable zone to work within. Ultimately the Planning Board endorsed a more circumscribed area of R-7 in association with that particular application. Feedback at that same meeting urged amending the R-6 *before* applying the R-7 with a broad brush. That feedback also contributed to the changes currently being reviewed. The R-6 zone as proposed allows greater flexibility and higher density than the existing zoning, but is still substantially more restrictive than the R-7 zone in terms of frontage, density, lot coverage (0 frontage requirement, 435 square feet of land area/dwelling unit, and 100% in the R-7 zone). As the dominant on-peninsula residential zone, R-6 encompasses all or portions of Munjoy Hill, Parkside, the West End, and East Bayside, Bayside, and Libbytown. These neighborhoods, varied though they are, embody successful pre-war development patterns – patterns that are not mirrored in the current dimensional requirements of the R-6 zone. Though the pattern of the peninsula's built environment is largely established, incremental changes to that pattern are ongoing, and the parameters of current zoning affect urban character today and into the future. These changes bring Portland's zoning closer into alignment with desirable patterns of development than is currently the case, as well as offering greater flexibility to existing and future property owners. As an example of the disparity between development patterns and current dimensional requirements, the current minimum lot size of 4,500 square feet renders 71% of existing parcels non-conforming. Similarly, the current minimum front setback of ten feet does not reflect the predominant pattern of Portland's residential neighborhoods, and if met or exceeded would produce a place of a significantly different urban character from the historic and much loved pattern there today. A minimum lot size of 2,000 square feet results in 14% of existing R-6 lots being non-conforming in the category of minimum lot size (see Figures 2 & 3).

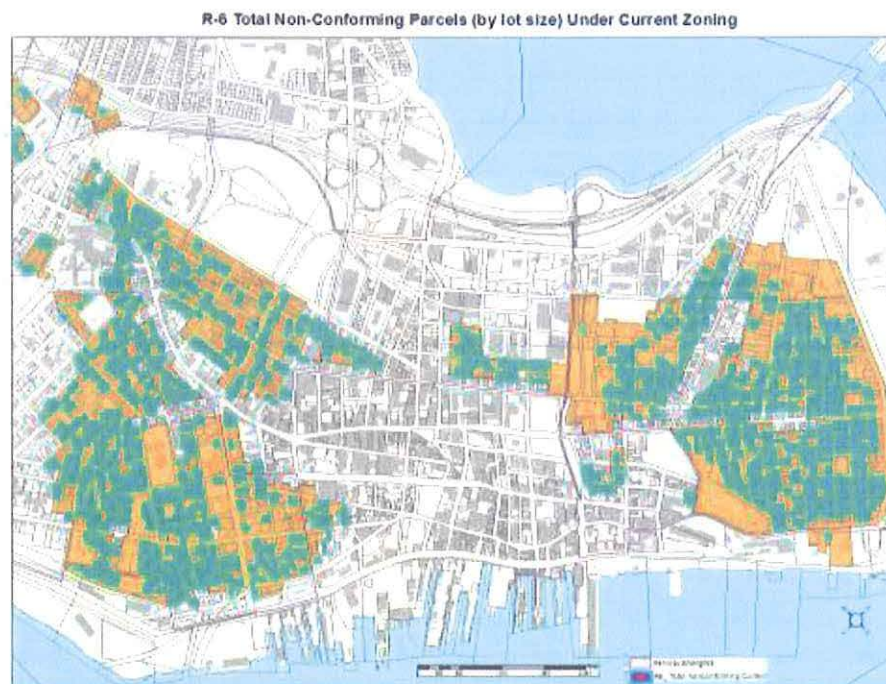


Figure 2, Existing Non-Conforming Lots Under Current Zoning

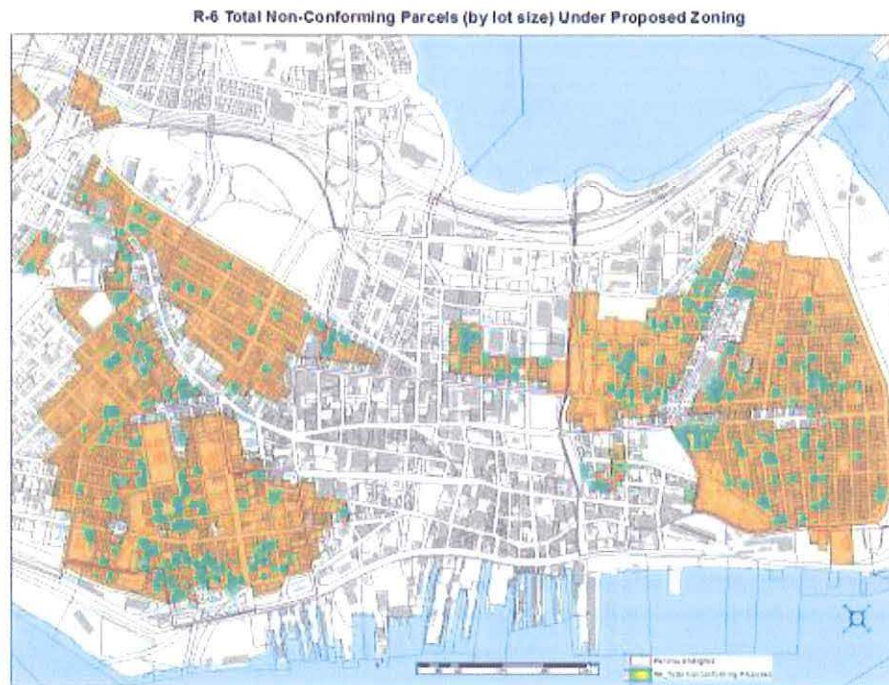


Figure 3, Non-Conforming Lots Under Proposed Zoning

III. Comprehensive Plan Policies

Numerous recommendations in Housing: Sustaining Portland's Future, support these text changes. Policy 1 indicates zoning should encourage all types of high quality and compatible housing to enhance neighborhoods, encourages high density, small lot infill, and allowing for a range of housing types. Policy 3 (*Maintain and enhance the livability of Portland's neighborhoods as the city grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity*) recommends updating codes to encourage new residential development that: *Offer diverse and quality living options; Encourages traditional neighborhood elements, Promotes a walkable city; Are Compatible with Portland's existing neighborhoods*. It also recommends ensuring the integrity and economic value of Portland's neighborhoods, working to find productive uses for vacant and underutilized lots, and increasing density where appropriate to achieve neighborhood diversity.

IV. City Council Goals.

These amendments are consistent with the City Council Common Goals and Objectives for 2014, which calls for zoning ordinance to allow for greater housing opportunities. A specific housing objective states: *Complete draft rewrites of the R-6, R-7 and B-2 portions of the zoning ordinance to allow for greater housing opportunities and present to Planning Board and Housing and Community Development Committee for review and recommendations to City Council.*

V. Proposed Text Amendments

Table 1, Existing and Proposed Dimensional Requirements

R-6 Dimensional Requirements		
	<i>Existing</i>	<i>Proposed</i>
Minimum Lot Size	Residential Uses: 4,500 sf	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 30,000 sf; Medium, 15,000 sf; Small, 7,500 sf.	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Municipal Use: 4,500 sf	Municipal Use: 2,000 sf
	Hospital: Two (2) acres	Hospital: Two (2) acres
	Lodging house: Four thousand five hundred (4,500) sf	Lodging house: Four thousand five hundred 2,000 sf
	All other uses: Forty-five hundred (4,500) square feet.	All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	<i>Minimum land area per dwelling unit:</i> One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f	250 s.f
Minimum land area per intermediate care facility resident	Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.	250 s.f
Minimum land area per permitted hostel guest when maximum permitted guests is greater than 10	None	250 s.f
Street Frontage	40 feet	20 feet

Minimum Front Yard Setback for Principal and Accessory Structures	Principal or accessory structures: Ten (10) feet. A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback. Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft. in height.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:	
	<i>Height of Structure Required Side Yard</i>	
	1 story 10 feet	
	2 stories 10 feet	
	3 stories 10 feet	
	4 stories 12 feet	
	5 stories 15 feet	

	The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.	
	ii. Detached accessory structures with ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
Side Yard on Side Street	10 feet	None
Structure Stepbacks		Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. <i>Does not apply to side yards on side streets.</i>
Maximum Lot Coverage	Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.	60%
Minimum Lot Width	50 feet	20 feet
Maximum Height	Principal and attached accessory structure: Forty-five (45) feet.	Principal and attached accessory structure: 45 ft
	Accessory detached structure: Eighteen (18) feet.	Detached accessory structure: 18 ft
		In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	<i>Uses other than bed and breakfast.</i> Twenty (20) percent for those lots which contain fewer than twenty (20) dwelling units; thirty (30) percent for those lots which contain twenty (20) or more dwelling units. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.

	<i>Bed and breakfasts.</i> A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for site plan shall not reduce the open space on the lot below 20% of the lot area. A bed and breakfast located on a lot that does not have at least 20% open space on the date of filing of the application for site plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for site plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.	
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	<i>On a collector or arterial road:</i>	<i>On a collector or arterial road:</i>
	Large: Not limited	Large: Not limited
	Medium: 4,500 sf	Medium: 4,500 s.f.
	Small: 2,250 sf	Small: 2,250 s.f.
	<i>Not on a collector or arterial road:</i>	<i>Not on a collector or arterial road:</i>
	Large: 4,500 sf	Large: 4,500 s.f.
	Medium: 2,250 sf	Medium: 2,250 s.f.
	Small: 1,125 sf	Small: 1,125 s.f.
Maximum Garage Opening		Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.

The changes are meant to simplify the ordinance, provide opportunities for additional housing construction, and allow for greater flexibility on lots. To that end the density standard, currently a variable 1,000 sf per dwelling unit for the first three units, and 1,200 sf per dwelling unit thereafter (36 units per acre) is being proposed to be changed to 725 sf per dwelling unit (60 units per acre). Table 2 illustrates the implications of the proposed change to the density

	Current R-6 Density (1000-1200 sf/du)	Proposed R-6 Density (725 sf/du)
2000 sf lot	2 units	2 units
3000 sf lot	3 units	4 units
4500 sf lot	4 units	6 units

Table 2

standard on three lot sizes. Minimum lot size is proposed to change from 4,500 sf to 2,000 sf, better matching the dense, small lot fabric of residential neighborhoods on the peninsula. Setbacks are reduced to also better match traditional building patterns, reducing the front setback from 10 feet to 5 feet. Side and rear setbacks are similarly reduced. The changes to lot coverage and setback standards have implications for existing as well as future homeowners and property developers, allowing small additions, decks, or accessory structures to be built where they currently are not allowed, allowing greater flexibility for existing properties, and also allowing for the possibility of existing neighborhood patterns to be replicated.

Other changes included in these amendments:

- A provision to allow townhouse style, horizontally attached dwelling units to occur through the elimination of the side setback (Sec. 14-139.b).
- The Small Residential Lot Development (current Sec. 14-139.2) will be eliminated. This standard is in place to allow for small, non-conforming lots to be developed, as the current minimum lot size renders so many small lots unbuildable. It is the goal of these changes to have a lot size sufficiently small as to eliminate the need for this provision.
- A maximum portion of the front façade that can be garage opening has been set to the lesser of 9 feet or 40 percent, with a maximum of 20 feet, so as not to have residential facades be disproportionately dominated by vehicle storage.

- Cumulative Side Setbacks. Five foot side setbacks are proposed for the R-6 zone. The dimensional standards proposed are made with the needs and viability of small lots in mind, so that they may accommodate both a building and a driveway. Existing residential patterns in the R-6 zone show a preponderance of houses hugging one property line, and a driveway along the other (Figure 1, a sketch to illustrate existing and proposed setbacks, shows this common existing non-conforming condition of a lot on Spring Street). To make this configuration a possibility in the future, the amendment includes the following side setback requirement: *5 ft, except that a side*

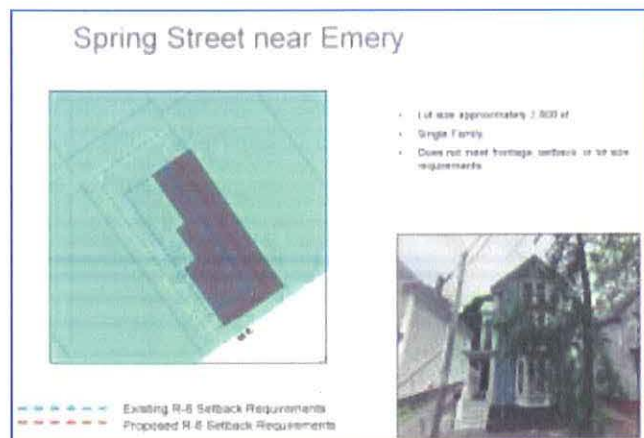


Figure 4

yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.

- Parking Standards. Included in these amendments are parking exemptions for the first three units as well as a one time exemption for one additional unit for existing buildings. Parking exemptions have always been included in this amendments, as a critical component of both offering the possibility of freeing a portion of land area for housing units that would otherwise be devoted to parking, and as a means to lower development costs, both issues working to increase the variety and quantity housing choices. This is not a proposal for a prohibition on providing off-street parking, and we expect that a majority of proposals for new residential development will continue to incorporate off-street parking. The proposal is made in the hope it grants some flexibility for small lots that might otherwise be challenged to have lot dimensions

provide for both a new structure and new parking spaces, both.

Lot Mergers/Lots of Record. Changes to the definition of Lot, as well as to 14-433, *Lots of Record and accessory structure setbacks for existing buildings* are attached. Organizational, structural changes to the section are included, in addition to substantive changes to the section. These changes maintain minimum standards for existing non-conforming lots, both for contiguous lots under common ownership and individual lots, while granting them relief from meeting all current dimensional standards.

Under current zoning, contiguous lots of record under common ownership are interpreted as a single tract of land. By changing the dimensional standards to include smaller lot sizes and reduced setbacks, many of these previously unbuildable small lots will return to the pool of buildable property. To account for the inability of many existing lots to meet all dimensional standards - a lot that contains an existing building that does not meet existing setbacks, for instance, would not qualify as meeting all dimensional requirements, and would still merge with an adjacent lot under common ownership - such contiguous lots are only required to meet minimum lot size and frontage requirements to maintain their separate, buildable status. The changes to 14-433 states that *Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d)*. In the R-6 this would mean contiguous lots under common ownership would need to be a minimum of 2,000 square feet in lot size, and have a minimum street frontage of 20 feet. Maintaining a basic standard of a small minimum lot size and minimum street frontage allows for small, nonconforming lots of record to function as buildable lots, without disqualifying them for the other possible dimensional non-conformities that may exist, such as existing buildings at lot lines.

VI. Public Process

In addition to the several Planning Board workshops and Public Hearing, over the course of several months, staff met with each impacted neighborhood organization to discuss the proposed changes, on the following dates:

- June 11. West End Neighborhood Association
- June 16. Western Promenade Neighborhood Association
- July 7. St. John Valley Neighborhood Association
- July 14. Libbytown Neighborhood Association
- July 16. Parkside Neighborhood Association
- August 5. Bayside Neighborhood Association
- August 11. Munjoy Hill Neighborhood Association
- August 19. East Bayside Neighborhood Association

Planning staff also met with the Southern Maine Landlord Association, and numerous individuals who requested meetings on the topic.

The feedback received at the Neighborhood Association meetings, as well as at the Planning Board's workshops was lively and varied, and much of it was supportive. The overall goals of zoning standards that better align with historic and desired patterns of development, the need to allow for greater housing production, and greater flexibility for property owners on small lots were received well. Feedback on the details of the proposal was far from uniform or entirely positive, though, and there were several recurrent themes of concern and critique that emerged at the meetings and at the workshops:

- *That five foot minimum side setbacks combined with a 45 foot height limit will create light and air impacts for adjacent properties.* In response, the text amendments were changed to include setbacks of an additional five feet beyond rear and side yard requirements for portions of building above 35 feet.
- *That allowing higher densities in residential zones will hasten a loss of larger housing units and families that occupy them, including the conversion of single family homes and multi-bedroom apartments to 1-bedrooms and efficiencies.* There is an existing zoning provision that speaks to this concern, placing size limits on the conversion of existing buildings into additional dwelling units. Sec. 14-136.2 requires that the creation of new multifamily dwellings originating from the alteration of an existing residential structure not result in the creation of any new dwelling unit of less than 600 square feet of floor area, and shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area. This does not prohibit division of existing units, but it does aid in the retention of a varied housing stock. In the proposed amendments this section is strengthened to apply to single family and duplex dwellings, as well.
- *That the proposed parking exemption for the first three units will have negative impacts on the livability of the impacted neighborhoods.* This has been the aspect of the changes that has received the most scrutiny and caused the most vocal concern. There has been criticism of this aspect of the changes, as well some enthusiastic and in some cases qualified support.
- *What is the relationship of these changes to affordable housing?* The question of the relationship of the proposed zoning changes to affordable housing has been asked at recent workshops. To clarify this point, these text amendments don't include affordability requirements. The R-6 proposal also does not limit the construction of housing that is not considered affordable, just as the current R-6 as it currently is written not do this. The City is considering various tools and strategies to address affordability for the entirety of Portland, including recently having a housing study completed (<http://www.portlandmaine.gov/AgendaCenter/ViewFile/Item/1369?fileID=5581>), and considering the development of an inclusionary zoning provision. Changing the requirements of the R-6 zone is one tool among many, and these changes do encourage affordability in allowing greater numbers of housing units to be created than is currently permitted, and by proposing to reduce parking requirements which impact affordability in both lowering total construction costs and in allowing more land to be dedicated to housing. By lowering the minimum lot size the possibility for small increments of development increases, and with it the potential for owner-occupied duplexes and triplexes. These changes support a diversity of housing choices, and with them the potential to add to the housing supply in a context that is consistent with the existing neighborhood patterns that would be impossible to replicate under the current zoning standards.
- *Have these changes been brought forward at the request of developers?* These amendments are not at the request of a private developer, and will benefit individual property owners, and small, non-professional property developers as much as developers of larger scale projects.
- *Lot sizes.* There has been feedback that there should be no minimum lot size and also that 2,000 sf is much too small of a minimum lot size. The Planning Board determined it is a size that will make the vast majority of lots developable, while still maintaining dimensional thresholds when paired with lot coverage, setback, and frontage requirements.
- *Concern with the impact on neighborhood character of garage doors as part of a front façade.* Feedback was received that all garage doors in front facades should be prohibited. A maximum percentage of the front façade that can be devoted to a garage door is proposed, so as to limit how much garage doors may

dominate a façade, while still allowing the possibility for this to occur.

- *Sumner Court Street Frontage and Lot Access.* There is currently no proposal before the City to develop any lots off of Sumner Court, but the issue was raised by concerned abutters as to whether there is any possibility further development could occur. Sumner Court, a private way, would not qualify for street frontage due to its status and width, however contiguous property owned by the same individual has street frontage on Cumberland Avenue. The three contiguous lots comprise approximately 15,000 sf. Please see Attachment 3 for a GIS map showing Sumner Court and the property in question. Planning Staff evaluated Sumner Court in light of the proposed amendments to the R-6 zone, and concluded that although none of the properties in question currently meet street frontage requirements, they also could not conclusively eliminate the possibility that some still unknown configuration of land could be brought forward and potentially be approved. The abutters of Sumner Court have requested consideration of a zoning amendment to require that the access to a lot be provided on the street frontage. There are situations where a driveway not being located on the frontage street is not problematic, and where such flexibility is desirable, such as corner lots, lots that have frontage on both front and rear boundaries, and lots with street frontage and alternative access rights to another street.

Associated with this issue is the neighbors' concern about the adequacy of driveway access, which is a site plan/subdivision issue. The physical adequacy (width, stability, condition, etc.) of a lane such as Sumner Court for access would be evaluated during the course of review. The access would need to meet Technical Manual standards, with advice from Fire Safety, our consulting traffic engineer, and staff from the Department of Public Services in reviewing any proposed access in a site plan or subdivision. More recent comments from abutters have suggested that an alternate amendment would require that any access that is not direct to a street frontage shall be required to meet all technical manual specifications with no chance for waivers.

The concerns over Sumner Court's development potential transcend the R-6 zoning amendments, and are circumstances that may occur City-wide. This item was discussed by the Planning Board, but no proposal was made to amend the ordinance to require that access be provided from the street where the street frontage is located, or to prohibit such a scenario from receiving waivers. If the Council wishes to consider changes that would not allow Sumner Court from being further developed in the future, Planning staff will be glad to these discuss alternatives and take the direction of the Council.

VII. PLANNING BOARD DELIBERATION AND RECOMMENDATION

The Planning Board deliberated the R-6 and associated amendments during three workshops and a public hearing, over a six month period, receiving public input and making adjustments and modifications to these changes throughout the process. The Board gave the issue of parking policy and exemptions particular attention, and reviewed a range of alternatives. At the public hearing a menu of four distinct parking choices and their implications was discussed, exempting from 1-3 spaces. Their final recommendation included a combination of the exemption of the first three required spaces, and a one time exemption of parking for the creation of one additional dwelling unit. The latter grants flexibility to existing development, and further enables small increments of infill development, consistent with the overall goals of amending the R-6 zone. The Board's final motion reflects these two option (numbered 1 and 4 at the March 10th Public Hearing).

On March 10, 2015, the Planning Board voted unanimously (6-0, Dundan absent) as follows: On the basis of information contained in this report, testimony presented at the public hearing, and a review of applicable policies, the Board finds:

The proposed R-6 and related zoning amendments are in conformance with the City of Portland Comprehensive

Plan and therefore recommends approval of the proposed zoning amendments to the City Council, including parking alternative 1 (exemptions of first three spaces) and 4 (exemption of one new space).

VIII. Attachments

1. Proposed Text Amendments to Portland Land Use Code, Div. 7, R-6 Residential Zone, 14-47, 14-332, 14-433.
2. Table of Existing and Proposed Dimensional requirements
3. Sumner Ct.

Public Comment

PC 1 Alexander
PC 2 Pringle
PC 3 McManamy
PC 4 Jack & Platte
PC 5 PHA
PC 6 Snyder
PC 7 Yarnold
PC 8 Davey
PC 9 Parsons
PC 10 Cowie
PC 11 Barowitz
PC 12 Burwell
PC 13 Barowitz
PC 14 Cowie
PC 15 Cowie
PC 16 Jack
PC17 WPNA

Amendments to Section 14-47. Definitions

~~Lot:~~ Except when reference is made herein to a lot of record, a lot is a single tract of land located within a single block which at the time of filing for a building permit or certificate of occupancy is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control. A parcel or area of land that is designated as an individual unit for use, development or ownership that is either a) a lot of record, recorded in the Cumberland County Registry of Deeds; or b) a contiguous combination of such lots of record under common ownership; or c) a newly established parcel meeting all the dimensional requirements of the zone in which it is located.

Amendments to Sections 14-135, 14-136, 14-139, 14-140

DIVISION 7. R-6 AND R-6A RESIDENTIAL ZONES*

Sec. 14-135. Purpose.

The purpose of the R-6 residential zone is:

(a) To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses.

(b) In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.

The purpose of the R-6A residential zone is:

(c) To encourage neighborhood livability with higher density multi-family housing on large parcels located off the peninsula. The zone is appropriate in areas that are along major public transportation routes, near service areas, and in redevelopment (underutilized) or infill areas.

Sec. 14-136. Permitted uses.

The following uses are permitted in the R-6 and R-6A residential zones:

(a) *Residential:*

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section article V (site plan) of this chapter shall be altered to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with article V (site plan) of this chapter or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this five-year period, shall be reviewed as a pursuant to article V of this chapter.
2. Multifamily dwellings, ~~provided that any alteration of a structure in residential use on December 2, 1987:~~
 - a. ~~Shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and~~
 - b. ~~Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic;~~

Sec. 14-139. Dimensional requirements.

- a. In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-6 and R-6A zones shall meet or exceed the following minimum requirements:

March 25, 2015. R-6 and Associated Text Edits

R-6 Dimensional Requirements	
Minimum Lot Size	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres. Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres. Intermediate care facility: One (1) acre. School: Thirty thousand (30,000) square feet. Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf. Hospital: Two (2) acres All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f.
Minimum land area per intermediate care facility resident	250 s.f.
Minimum land area per permitted hostel guest when maximum	250 s.f.
Street Frontage	20 feet
Minimum Front Yard Setback for Principal and Accessory Structures	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet. All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback. Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft. in height.
Side Yard on Side Street	None
Structure Stepbacks	Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. <i>Does not apply to side yards on side streets.</i>
Maximum Lot Coverage	60%
Minimum Lot Width	20 feet
Maximum Height	Principal and attached accessory structure: 45 ft Detached accessory structure: 18 ft In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	<i>On a collector or arterial road:</i> Large: Not limited Medium: 4,500 s.f. Small: 2,250 s.f. <i>Not on a collector or arterial road:</i> Large: 4,500 s.f. Medium: 2,250 s.f. Small: 1,125 s.f.
Maximum Garage Opening	Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.

b. Townhouse Subdivisions

Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side yard requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size, width shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.

C. Alterations to Single-family, two-family, and multi-family dwellings in existence as of (date of enactment) shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic.

~~(a) Minimum lot size:~~

- ~~1. Residential: Forty five hundred (4,500) square feet, except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.~~
- ~~2. Reserved.~~
- ~~3. Long term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.~~
- ~~4. Intermediate care facility: One (1) acre.~~
- ~~5. School: Thirty thousand (30,000) square feet.~~
- ~~6. Places of assembly;~~

Large	30,000 sq. ft.
Medium	15,000 sq. ft.
Small	7,500 sq. ft.

- ~~7. Municipal use: Forty five hundred (4,500) square feet.~~
- ~~8. Hospital: Two (2) acres.~~

9. ~~All other uses: Forty five hundred (4,500) square feet.~~

10. ~~Lodging house: Four thousand five hundred (4,500) square feet.~~

(b) ~~1. *Minimum area per dwelling unit:* One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.~~

~~2. *Minimum rooming unit areas for lodging houses:* Two hundred (200) square feet of combined rooming unit and common area for each rooming unit. Each individual rooming unit shall be a minimum of eighty (80) square feet.~~

~~3. *Minimum land area per lodging house rooming unit:* Two hundred fifty (250) square feet.~~

~~4. *Minimum land area per intermediate care facility resident:* Eight thousand (8,000) square feet for the first thirty five (35) residents, plus three hundred fifty (350) square feet for each additional resident.~~

(c) ~~*Minimum street frontage:* Forty (40) feet.~~

(d) ~~*Minimum yard dimensions:* (Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)~~

~~1. *Front yard:*~~

~~Principal or accessory structures: Ten (10) feet.~~

~~A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.~~

~~2. *Rear yard:*~~

~~a. *Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:* Twenty (20) feet.~~

~~b. — Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~e. — Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~3. — Side yard:~~

~~a. — Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~*Height of Structure — Required Side Yard*~~

~~1-story 10 feet~~

~~2-stories 10 feet~~

~~3-stories 10 feet~~

~~4-stories 12 feet~~

~~5-stories 15 feet~~

~~The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.~~

~~b. — Detached accessory structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~e. — Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~4. — Side yard on side streets:~~

~~a. — Principal or accessory structures: Ten (10) feet.~~

~~(e) — Maximum lot coverage: Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.~~

~~(f) — Minimum lot width: Fifty (50) feet.~~

~~(g) — Maximum structure height:~~

~~Principal and attached accessory structure: Forty-five (45) feet.~~

~~Accessory detached structure: Eighteen (18) feet.~~

~~(h) — Open space ratio:~~

~~1. — Uses other than bed and breakfast. Twenty (20) percent for those lots which contain fewer than twenty (20) dwelling units; thirty (30) percent for those lots which contain twenty (20) or more dwelling units. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.~~

~~2. — Bed and breakfasts. A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for Site Plan shall not reduce the open space on the lot below twenty (20) percent of the lot area. A bed and breakfast located on a lot that does not have at least twenty (20) percent open space on the date of filing of the application for Site Plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for Site Plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.~~

~~(i) — A below grade dwelling unit shall be permitted only if the primary access for the dwelling unit is provided directly to the outside of the building.~~

~~(j) — Minimum gross floor area for bed and breakfasts: Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.~~

~~(k) — Maximum floor area for places of assembly on a collector or arterial road:~~

Large	Not limited
Medium	4,500 sq. ft.
Small	2,250 sq. ft.

~~(1) — Maximum floor area for places of assembly not on a collector or arterial road:~~

Large	4,500-sq. ft.
Medium	2,250-sq. ft.
Small	1,125-sq. ft.

~~(2) — Small residential lot development: Residential uses on small, vacant lots located in the R-6 are subject to Site Plan review and may use the dimensional requirements below if all of the following conditions are met:~~

~~———— The lot is:~~

~~Vacant or is used exclusively for parking or contains structure not used for residential purposes as of January 1, 2005; and the lot existed as of January 1, 2005.~~

~~———— (a) — Minimum lot size: None~~

~~———— (b) — Maximum lot size: Ten thousand (10,000) square feet.~~

~~———— (c) — Yard dimensions:~~

~~———— 1. — Front yard:~~

~~———— No more than ten (10) feet.~~

~~———— 2. — Rear yard:~~

~~None, except that rear yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the abutting buildings and proposed buildings divided by five (5), whichever is greater; and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line.~~

~~———— 3. — Side yard:~~

~~None, except that side yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the existing buildings and proposed buildings divided by five (5), whichever is greater and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; Provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line. On a corner lot no side yard is required on that side of the lot which abuts any street. A principal structure on a corner lot shall not be more than ten (10) feet from the street.~~

~~(d) Minimum principal structure height: Two (2) stories of living space above the grade of the adjacent street frontage, except for porches, entryways, attached garages and accessory detached structures.~~

~~(e) Maximum principal structure height: Forty five (45) feet.~~

~~(f) Open space requirement: All lots used for residential purposes shall provide an attached exterior deck, porch, patio or balcony for each dwelling unit, except where a designated open space equal to ten (10) percent or more of the lot area is located on site and maintained as open space, then the number of exterior decks, porches, patios or balconies may be reduced by up to fifty (50) percent. The designated open space, if provided, shall have a minimum width and length of at least fifteen (15) feet, a slope of no greater than ten (10) percent and shall be used exclusively as recreational open space i.e. it shall not be used for vehicular circulation, parking, etc.. All required decks, porches, patios or balconies shall meet the requirements of the Planning and Development Design Manual.~~

~~(g) Minimum lot width: None.~~

~~(h) Minimum land area per dwelling: Seven hundred and twenty five (725) square feet.~~

Sec. 14-140. Other requirements.

(a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article, except that required parking for residential building additions shall be located on the same lot.

~~For small, vacant lots which meet, and are developed under, the dimensional standards of 14-139(2) above, the following off-street parking requirements shall apply:~~

- ~~1. One (1) parking space per dwelling unit is required and shall be located on the same lot; and~~
- ~~2. The technical and Design Standards for driveway design for one and two-family buildings (Section II, Traffic Design Standards and Guidelines) shall apply to projects with up to four units and with no more than four parking spaces;~~

(b) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(c) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

~~(d) Small residential lot development shall conform to the Site Plan standards of §14-526.~~

Amendments to Section 14-332, Parking

Sec. 14-332. Uses requiring off-street parking.

Except as provided in Section 14-332.1, 14-332.2 (exceptions) and 14-345 (fee in-lieu of parking) of this division, for the uses listed below the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

(a) *Residential structures:*

1. For new construction, two, (2) parking spaces for each dwelling unit, ~~plus one (1) additional parking space for every six (6) units or fraction thereof.~~
2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.
3. ~~For residential development on the peninsula (southerly of I 295 and Tukey's Bridge) and R-6 and R-6A zones.~~

~~a. One (1) space per unit;~~

~~b. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared-use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.~~

~~c. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.~~

Sec. 14-332.1. Zone specific off-street parking exceptions and modifications.

The off-street parking requirements established for uses, established above in section 14-332 of this division, are hereby modified for the following zones according to the provisions described below.

....

(k) For residential development, including of new construction, alterations which increase the number of units, and changes of use on the peninsula (southerly of I-295 and Tukey's Bridge) and R-6 and R-6A zones.

1. One (1) space per unit.
2. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.
3. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.
4. No parking shall be required for the first three units in the R-6 Residential Zone.
5. For alterations of buildings containing three or more dwelling units in the R-6 zone no parking shall be required for the creation of one additional dwelling unit above existing conditions as of (date of enactment). This exemption may be utilized one time.

Amendments to Section 14-433. Lots of record and accessory structure setbacks for existing buildings

Sec. 14-433. Lots of record and accessory structure setbacks for existing buildings.

1. Lots of Record.

Lots of record that meet the minimum standards provided below shall be considered buildable lots.

(a) ~~Notwithstanding any other language in this ordinance, Any lot~~Lots of record as of June 5, 1957, may be considered a buildable lot in any residential zone provided the applicable yard dimensions can be met; and held under separate and distinct ownership from adjacent lots and provided that a minimum having a street frontage of forty (40) feet can be met, or to which a means of access has been previously approved by the city council as provided elsewhere in this article; ~~may be considered a buildable lot in any residential zone except as provided below for island residential zones, and provided such lots have with~~ a minimum lot size of five thousand (5,000) square feet, ~~except that a lot in the R-6 zone may have a minimum lot size of three thousand (3,000) square feet, or the applicable minimum lot size and frontage in that zone, whichever is less provided that the applicable yard dimensions can be met.~~

(b) A lot in the R-1, R-2, R-3, R-4, R-5, R-5A or R-6 zones that was described in a subdivision plat approved by the Planning Board after June 5, 1981, or a lot of record that conformed to the applicable lot size requirement, lot width and street frontage as of June 5, 1984, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.

(c) ~~1. Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.~~

~~(a) —~~

~~(d) A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.~~

~~(e) Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d).~~

~~2. —~~

~~2. Accessory Structures and Building Additions.~~ Where such a lot has a principal structure which existed as of July 19, 1988, an accessory structure or building addition may be located within the following side and rear yards, provided that the normal applicable yard requirements cannot be met ~~provided, however, that less restrictive zoning requirements which meet the requirements contained within 14-139(b) for residential small lot development shall apply:~~

a. *R-1, R-2:*

Rear yard: Ten (10) feet.

Side yard: Five (5) feet.

b. *R-3, R-4, R-5, R-5A, R-6:*

Rear yard: Five (5) feet.

Side yard: Five (5) feet.

~~(3). Conversion of Accessory Structures to Dwelling Units:~~ Any detached or accessory structure in the R-4 or R-6 zones, with a ground coverage exceeding two hundred fifty (250) square feet and which was in existence on January 1, 1940, may be converted to dwelling uses without meeting front, side or rear yard setbacks, provided there is no enlargement of any nonconforming portion of the existing building footprint and provided the conversion will conform to the minimum land area per dwelling unit.

~~Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of~~

~~six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.~~

~~3. — A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.~~

Amendments to Section 14-526. Site Plan Standards

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:

...

(vi) Residential Development in the following districts:

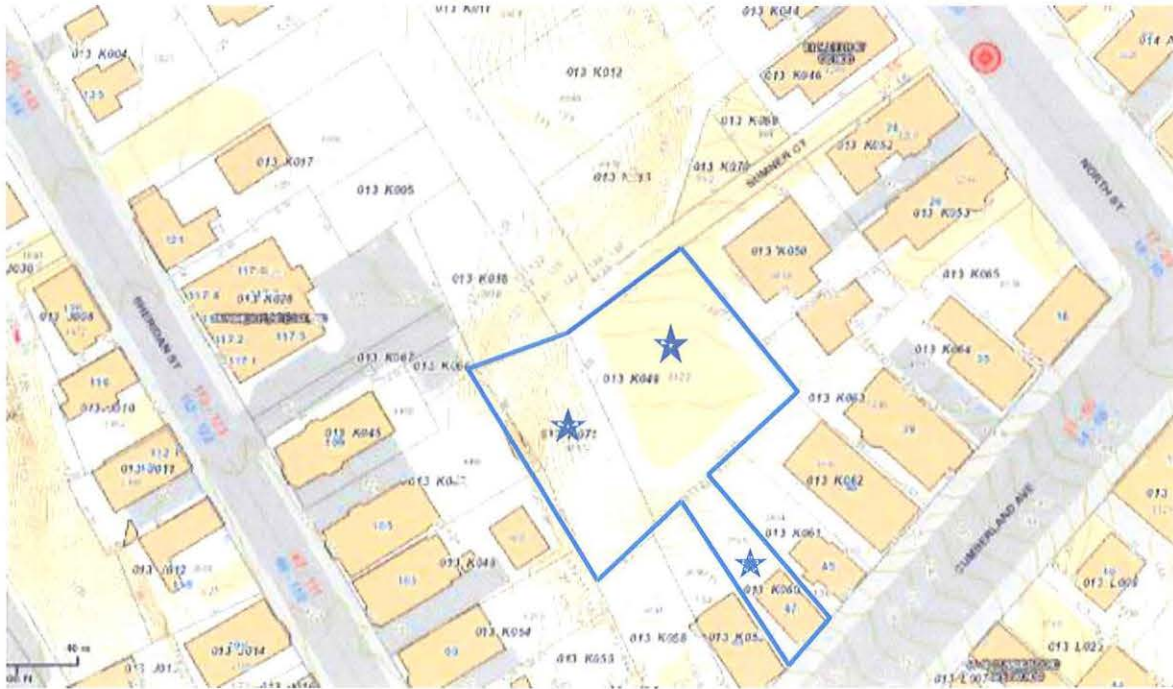
...

- (d) ~~Multiple family and multiplex~~All residential development in the R6 zone ~~on lots of 10,000 square feet or less.~~

R-6 Dimensional Requirements		
	Existing	Proposed
Minimum Lot Size	Residential Uses: 4,500 sf	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 30,000 sf; Medium, 15,000 sf; Small, 7,500 sf.	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Municipal Use: 4,500 sf	Municipal Use: 2,000 sf
	Hospital: Two (2) acres	Hospital: Two (2) acres
	Lodging house: Four thousand five hundred (4,500) sf	Lodging house: Four thousand five hundred 2,000 sf
	All other uses: Forty-five hundred (4,500) square feet.	All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	Minimum land area per dwelling unit: One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f	250 s.f
Minimum land area per intermediate care facility resident	Eight thousand (8,000) square feet for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.	250 s.f
Minimum land area per permitted hostel guest when maximum permitted guests is greater than 10	None	250 s.f
Street Frontage	40 feet	20 feet
Minimum Front Yard Setback for Principal and Accessory Structures	Principal or accessory structures: Ten (10) feet. A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.	5 ft, or no more than average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback. Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft. in height.
	ii. Detached accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
	i. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:	
	Height of Structure Required Side Yard	
	1 story 10 feet	
	2 stories 10 feet	
	3 stories 10 feet	
	4 stories 12 feet	
	5 stories 15 feet	
	The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.	

R-6 Dimensional Requirements		
	ii. Detached accessory structures with ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.	
	iii. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.	
Side Yard on Side Street	10 feet	None
Structure Stepbacks		Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. <i>Does not apply to side yards on side streets.</i>
Maximum Lot Coverage	Forty (40) percent of lot area for lots which contain twenty (20) or more dwelling units; fifty (50) percent for lots which contain fewer than twenty (20) dwelling units.	60%
Minimum Lot Width	50 feet	20 feet
Maximum Height	Principal and attached accessory structure: Forty-five (45) feet.	Principal and attached accessory structure: 45 ft
	Accessory detached structure: Eighteen (18) feet.	Detached accessory structure: 18 ft
		In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	<i>Uses other than bed and breakfast.</i> Twenty (20) percent for those lots which contain fewer than twenty (20) dwelling units; thirty (30) percent for those lots which contain twenty (20) or more dwelling units. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.
	<i>Bed and breakfasts.</i> A bed and breakfast that is located on a lot that has at least twenty (20) percent open space on the date of filing of the application for site plan shall not reduce the open space on the lot below 20% of the lot area. A bed and breakfast located on a lot that does not have at least 20% open space on the date of filing of the application for site plan review, and that is legally nonconforming as to the open space requirement of this section, shall not reduce the open space on the lot below the level in existence on the date of the application for site plan review. Open space areas shall not include parking areas or other impervious surface areas as defined in section 14-47.	
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	<i>On a collector or arterial road:</i>	<i>On a collector or arterial road:</i>
	Large: Not limited	Large: Not limited
	Medium: 4,500 sf	Medium: 4,500 s.f.
	Small: 2,250 sf	Small: 2,250 s.f.
	<i>Not on a collector or arterial road:</i>	<i>Not on a collector or arterial road:</i>
	Large: 4,500 sf	Large: 4,500 s.f.
Maximum Garage Opening	Medium: 2,250 sf	Medium: 2,250 s.f.
	Small: 1,125 sf	Small: 1,125 s.f.
		Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.
Date of Draft: March 5, 2014		

Map of Vacant R-6 Land Vic. of Sumner Court and Cumberland Ave.



- Total area: 14, 991 SF

From: Todd Alexander <toddmalexander@gmail.com>
To: <aqj@portlandmaine.gov>, <cdg@portlandmaine.gov>, Catherine Alexander <calexander@unum.com>, <marshalldistrict2@gmail.com>, <damarshall@portlandmaine.gov>, <mfpb@portlandmaine.gov>, <jhinck@portlandmaine.gov>, <kjdonoghue@portlandmaine.gov>
Date: 7/10/2014 8:22 AM
Subject: Proposed Changes to R6 Zone

Hi Alex:

I am writing this email to provide public input on the proposed changes to the R6 zone. By way of background, my wife, Catherine, and I live at 3 Carroll Street -- which is located within the R6 Zone. We have lived in this neighborhood for the past 15+ years -- previously owning a home on Pine Street, also within the R6 Zone. My wife is a real estate attorney.

My background is in urban planning, real estate development (affordable housing) and real estate finance. We have three young children who attend Reiche.

We are strong supporters of the proposed changes to the R6 zone. In particular, we are extremely pleased to see the proposed amendments to the dimensional requirements. The current dimensional requirements for the R6 zone are not consistent with the city's comprehensive plan and current housing policies. Most importantly, existing requirements severely restrict the ability of property owners to develop or redevelop their properties in a manner that would otherwise be completely inline with the historical development patterns in the East and West End neighborhoods.

This results in numerous vacant and underutilized lots that negatively impact the entire neighborhood by reducing property values, limiting housing choices and suppressing municipal property tax revenue. If anything, we support even less restrictive dimensional requirements--for example, reducing the density allowance to 1 unit for every 435 square feet, similar to the neighborhood business zones and R7 overlay zone.

I would add that, in conversation with our neighbors and friends who would be directly impacted, there is generally consistent support for the proposed changes. Collectively, we can connect the dots between more flexible zoning and the positive results it will bring -- cleaning up run-down properties, more families moving into the neighborhood, and greater property tax revenue to support our students and teachers at Reiche, to name just a few.

The West End neighborhood, in my opinion, has benefited greatly from the City and Planning Board's progressive policies towards responsible development on the peninsula and I think the proposed R6 zone changes are another step in the right direction.

Best,
 Todd

--
 Todd M. Alexander
 207 749-7257

Jeff and Alex,

Thank for meeting with WPNA Board and Visioning Committee members on June 16 to discuss the impetus for and proposed text changes to the R-6. I understand that you have also reached out to other peninsula neighborhood associations and we all appreciate the early introduction to this important initiative.

As we understand it, the effort comes at the direction of the HCDC to encourage more housing creation by removing zoning impediments, while being sympathetic to the context in which new housing would be created. Objectives are:

- ~Assure a range of housing options
- ~Add housing units
- ~Promote "affordable housing"
- ~Reflect the existing development pattern in neighborhoods

On its face, each of these are worthy objectives, but zoning changes must be approached carefully to assure that the objectives are, indeed, met and that unintended consequences are avoided.

Some of our comments were:

- ~The proposed street line changes appear to make sense to conform to the existing development pattern and do not affect other neighbors.
- ~Side and rear setback changes and lot coverage may make sense in certain situations, but not others, as they may negatively affect immediate abutters.
- ~Reduction in the required lot size/unit, with some controls over individual unit size, will create more units but could potentially spur conversion of more affordable single family homes to multi-unit structures.
- ~In the quest for "affordable housing", how does the City define this term? What mechanisms are contemplated to assure sustainable affordable housing, as zoning changes do not control the marketplace? In particular, an unintended consequence might be the conversion of modest single family homes to multi-units, a windfall for the seller and developer, but probably providing affordable housing to perhaps only the first unit occupant and removing relatively affordable single family homes from the housing stock.
- ~The proposed reduced parking requirement was of great concern in an already tight parking situation on many blocks.
- ~In the case of vacant lots under the new rules, a large new building with significant lot coverage might not be consistent with the prevailing development pattern.
- ~Once the zoning is changed, it affects existing owners who can't get relief from the unintended impacts of the changes.

Upon reflection, here are some incremental actions that may make sense, in response to the issues raised above:

- ~Focus first on the vacant "stranded lots", development of which is constrained by existing zoning. How many such lots are there? How many housing units might be created under the proposed density changes? Do and evaluate some visual impact examples for individual lots, shown in the existing development context.

~Explore ways to reduce development cost on the peninsula. As you have heard me comment at numerous meetings, the development cost of "affordable housing" is outrageous. How does it compare to the cost of private development by Crandall Toothaker, for example?

~Study the market for very small units. How deep, sustainable is that market? What housing stock might be lost to the conversion to smaller units? How does that affect the mix and integrity of existing neighborhoods?

~Study the peninsula housing pattern in, say, the '40s or '50s, when Portland's population was much larger. How many people lived on the peninsula? Household sizes? In what housing configurations? Single family homes, multi-bedroom apartments, etc? What has changed? For example, the large-scale conversion in Parkside in the 1970s of large single family units (homes and apartments) to one bedroom units made the neighborhood more transitory and severely affected the parking problem.

Thank you for considering our input.

Please let me know the current timeline for this issue to move forward, so that we will be ready to participate in meetings.

Thanks - and let me know if you have any questions or comments

Anne Pringle, President
Western Promenade Neighborhood Association

November 19, 2014

Chair O'Brien and members of the Portland Planning Board:

I am writing to ask you to broaden awareness of and participation in the substantial changes proposed for the R6 zone. As a resident of Munjoy Hill, I can see that the amendments will have a substantial negative impact on my quality of life, and I believe my concerns would be shared by many if they were aware of the work underway. Casual conversations around town convince me they are not.

My first request is that you mail postcards to property owners and renters in the affected neighborhoods, directing them to the well-organized resource on the city's website and informing them of upcoming events.

With respect to the proposals, I am concerned about the elimination of the offstreet parking requirement for the first three units. Before we had any parking requirements at all, Parkside was the focus of a frenzy of investment in income properties, and the congestion resulting from that era remains today: the interest among Portland residents in being car-free has not removed enough cars from Parkside streets to make the neighborhood's parking adequate. Much of the property is absentee landlord-owned. Were these changes to go through, I am certain the same would happen on Munjoy Hill. I would be able to add two units to the building I own and live in, and all the tenants' cars would be on the street. Increased real estate values would put great pressure on landowners to build to the maximum number of units.

We need a specific parking strategy for the Portland peninsula, but this is not it. My second request is that you remove this proposal from the table this activity and develop a parking strategy with input from residents.

My second concern is for the escalation of property values on the peninsula, which this proposal will accelerate. There is growing anxiety about the next revaluation, and consequent impact on taxes. A sudden increase in property taxes is likely to drive many middle income residents out of my neighborhood, to accelerate the chopping up of existing buildings into smaller units, and to eventually lead to another collapse in real estate prices. Already there are unsold condos on the Hill, and developers are buying and renovating properties in order to flip them. We have seen this before, in the early 90s, and don't want to go down that road again.

My third request is that you communicate in a transparent way with the citizens of Portland about the state of the city and the type of social fabric your housing policy is designed to bring about (is it true that half the rental units in the city are subsidized? Is it true also that families with children leave the peninsula and the city seeking a better balanced social environment for their children's schools once the children reach school age?) Nowhere is it clearly stated.

I believe that most of the residents of the R6 zone support shelter for all who need it, but believe that driving this development agenda will simply price more middle class families out of the market. It is time to create cluster developments with neighborhood services in off-peninsula neighborhoods where land prices are more reasonable and construction costs lower. I think this rises to the level of a revision of the comprehensive plan, and so my fourth request is that you initiate that process.

Finally, I want to request that the city rebalance its efforts to reduce the time spent on enabling development. The city's only visible economic development strategy seems to be a maximum buildout of its real estate. This summer, nearly every street on the peninsula was opened for utility work, and closed up again without the installation of fiber optic cable or conduits for fiber optic cable. Meanwhile, South Portland has partnered with gwi.net to install state of the art infrastructure for business and entrepreneurs. The internet service on the peninsula is poor, partly because our antiquated phone lines cannot carry a high quality signal, and Portland is at

risk of losing its highly valued entrepreneurial culture as a result. We have sadly neglected important business as a city , whether it is fire safety or infrastructure to support business. The pendulum has swung too far.

Thank you for taking the time to read this.

Sincerely,

Jean (Nini) McManamy
10 Willis Street, Portland

11/19/14

Barbara Barhydt, Development Review Manager
Alex Jaegerman, Director
Christine Grimando, Senior Planner
Planning Division
389 Congress Street 4th Floor
Portland, ME 04101

Dear Barbara,

My husband and I own and reside in property on Munjoy Hill. We are not able to attend the workshop meeting on 11/25 to discuss the proposed changes to the R-6 Zoning Ordinance but want to weigh in on this important issue.

We understand that the city's mission for changing the R-6 ordinance is to provide for greater housing opportunities, to enable infill development on small parcels and to have standards in place for new construction to be consistent with the historic pattern of development in the R-6 zone.

While we support parts of that overall mission, we feel that some of the reduced requirements in the current proposal go too far and will create unintended consequences that will negatively change the landscape and overall character of the neighborhoods in the R-6 zone.

For example, at the first meeting we attended several months ago regarding the R-6 changes, the initial proposal reduced the minimum lot size from 4,500 to 2,500 sq. ft. and reduced the minimum street frontage and lot width requirements from 40' to 30'. In the latest proposal, these requirements have been even further reduced, which we are very concerned about. The current proposal reduces the minimum lot size from 4,500 to 2,000 sq. ft. and reduces the minimum street frontage and lot width requirements from 40' to 20'.

If these current requirements pass and parcels with only 20' of street frontage qualify as buildable lots--with the new 5' setbacks on either side--they would allow for 10' wide buildings as high as 45' to be erected. These structures would resemble the "tube" housing that is prevalent in Hanoi, Vietnam--the only place in the world where these structures currently exist. Below are examples of what these buildings look like:



These structures are clearly not the type of housing that is intended for the Portland peninsula, do not support the Comprehensive Plan and are completely out of character with our current neighborhoods. Yet they would be possible given the requirements in the current proposal.

Too, given the huge increase in land values, property owners and developers would be encouraged to divide and sell off any portions of their lots that would qualify as buildable lots under the new provisions. Thus, not only would some of the existing R-6 vacant lots qualify for development, but much of the land currently used as side yards and off street parking areas would be lost to the type of increased housing density mentioned above. The charm and character of our current neighborhoods would be lost forever and more cars would end up on the streets, making our parking issues far worse.

We are further concerned that the parking requirements have been reduced from 1 space per unit to 0 spaces for the first three units. The Portland public transportation system has a very long way to go before it will truly be practical for residents not to own cars. In the interim, the City is responsible for creating realistic zoning laws that recognize this fact. Pouring more cars on the streets with no plan for how to properly manage them is simply not good public policy.

We agree that the Small Residential Lot Provision should be eliminated from the R-6 Zoning Ordinance since the new minimum lot size will be smaller and will allow for many vacant lots to be developed, where appropriate. If the Small Lot Provision is not eliminated, it should be amended to include a minimum street frontage provision so that lots with inadequate access will not qualify for development.

While we support responsible development when and where it's appropriate, we do not support changing zoning laws simply so that developers can squeeze more market rate housing units into every square inch of land on the peninsula. This will do nothing to preserve the character of our neighborhoods or to solve the affordable housing crisis. It will only support the developers and those who can afford luxury housing. Given the continued rise in land and property values, it is no longer feasible for developers to build

affordable housing units in most areas on the peninsula, especially the already densely populated areas like Munjoy Hill and the West End. There is an explosion of new high end housing units currently under construction on Munjoy Hill. Some are selling for prices as high as a million dollars per unit. If the goal is to add more affordable housing units in Portland, the City needs to look at neighborhoods where land is more available and affordable rather than changing the zoning in the most densely populated neighborhoods in the state to squeeze in more high end housing units. Affordable housing opportunities are more realistic in areas off the peninsula with lower land values.

In summary, we feel that more public discussion is necessary before a proposal is presented to the City Council for approval. We attended a meeting on 11/16 at the MHNO office and heard from the nearly 36 people in attendance that there is a high lack of public awareness surrounding this issue. Despite the fact that members of the Planning Staff have met with some of the neighborhood organizations, many residents are not aware that changes to the R-6 zoning ordinance have been proposed and are being discussed. The city must cast a much wider net to include their voices in this discussion before any changes are made.

Sincerely,

Pam Jack & Devon Platte
26 North Street



COMMISSIONERS

Christian MilNeil, Chairperson
 Shirley Peterson, Vice Chairperson
 Siyad Ahmed, Commissioner
 Mariar Balow, Commissioner
 Evan Carroll, Commissioner
 Faith McLean, Commissioner
 Thomas Valleau, Commissioner

Mark B. Adelson
 Executive Director

14 Baxter Boulevard
 Portland, Maine 04101
 Office: 207-773-4753
 Fax: 207-761-5886
www.porthouse.org

November 10, 2014

To the Portland Planning Board and Portland City Council:

The Portland Housing Authority (PHA) would like to express its strong support for the proposed revisions to Portland's R6 zoning code. We assist over 3,000 households with housing in the City of Portland through our Public Housing and Section 8 Housing Choice Voucher programs. The current zoning code is a major obstacle in building new rental housing on the Portland peninsula, and poses three important challenges to our mission and programs:

- Very few market rate apartments have been built on the Portland peninsula in the past 30 years, in spite of rising demand. This has created extremely tight conditions in the rental market, with single-digit vacancy rates. This makes it harder for us to locate housing for families eager to utilize our Housing Choice Vouchers, the bulk of which are paid to private-sector landlords.
- The imbalance of rental supply and demand has also increased the city's market rents. This drives more households to seek assistance from our programs (over 4,500 applicants are currently on our waiting list) while forcing us to spend more money on each of the 1,800 Section 8 Housing Choice Vouchers we administer.
- Our long-term goal is to redevelop our Public Housing neighborhoods like Kennedy Park in such a way that these sites can house more families, employ better urban design, and create wider variety of affordable housing opportunities. However, the restrictions of the current zoning code effectively prohibit affordable housing unless significant subsidy can be obtained. State and Federal assisted financing for development and additional rental subsidies are extremely limited and competitive. Along with current density restrictions, setback and parking requirements prohibit building new housing that mimics the design and architectural vernacular of Portland's older neighborhoods.

The proposed revisions would, in the short term, enable the PHA and others to develop new affordable housing that serves more households, is more energy-efficient, promotes upward mobility for our residents, and is better-integrated with surrounding neighborhoods. And, in the longer term, a revised R6 zone would stimulate the construction of new middle-class housing which in-turn would help to ameliorate the city's housing shortage and associated rent inflation.

One question we have is in regard to two of our largest Public Housing properties in the R6. Together, Harbor Terrace in the West End and Franklin Towers in Bayside contain 320 apartments for seniors and disabled individuals. These buildings are over 40 years old and will be ready for redevelopment in the not-to-distant future. Even if the proposed amendments are approved, they would still violate the new R6 zone's height requirements. Whether they deserve an entirely new zoning designation or an exception in the R6 language, we would appreciate a discussion with City planners and possibly a proactive solution.

Yours sincerely,



Mark B. Adelson, Executive Director

cc: Jeff Levine, City of Portland Planning Division Director

Hi Alex, Christine, and Jeff,

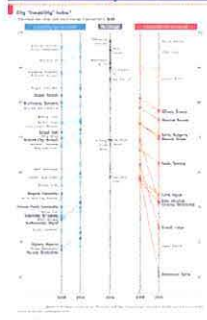
Based on the outcome of the proposed R-6 amendment changes that you proposed to the East Bay Side Neighborhood Meeting held on Tuesday, August 19, 2014 at the Mayo Streets Art building, conservatively 80% of the East Bay Residents that attended were really opposed to the R-6 recommended parking changes of NOT requiring off street parking for multi-units of three (3) or less. One (1) off street parking slot per unit should ALWAYS be required. I am pretty sure the majority of East Bay Side neighbors agrees with this statement to keep further congestion on our neighborhood streets.

Additionally, I am concerned about the accuracy and the bench marking information gathering that you seem to justify these proposed R-6 dimensional requirement changes. You seem to use a specific consultant that feeds you information and you appear to be using only Portland, Oregon as a bench marking model. Yet, you can not seem to provide any specific detail on the statistics (example: averages, min/max, etc.) that drive your dimensional requirements existing and proposals dimensional numbers. In fact, when we asked you about Front Yard Setback, you basically said you don't have any averages, well if that is the case, how could you make a proposed front yard setback dimension requirement? This also applies to the other proposed dimensional requirements as well.

I am not sure if you realize this but the reputable magazine called the Economist which has just put out the most livable cities in the world to live in and the United States has NOT one city included in the top ten. In fact, several Australian and Canadian cities are in the top ten.

The below link provides the Economist's 2014 latest livable city list which could also possibly be used in benchmarking for cities' models and parameters rather than just Portland, Oregon.

The best places to live



The best places to live

A data-driven ranking of the most liveable cities NOT New York nor Paris nor Tokyo. Urbanites in Britain's former dominions should count themselves lucky,...

[View on www.economist.com](http://www.economist.com)

Preview by Yahoo

The reason why I live in Portland, ME is because it acted like a city represented in the Economist as a most livable city since I have been to most of the world's best livable cities. However, it appears that the current Portland city council, planning dept, and the planning board members are slowly killing the essence of what makes Portland, ME one of the few cities in the United States that is "livable" to appease the developers without the consideration of the local tax paying residents in mind.

Regards,
K Snyder
Concerned Munjoy Hill Resident

>>> "RITA YARNOLD" <cbayrea1@maine.rr.com> Tuesday, October 28, 2014 12:08 PM >>>

Dear Barbara,

I have a showing appointment that conflicts with the Planning Department workshop this afternoon at 4:30.

As a local real estate professional, I agree with Ron Gan's October 22, 2014 letter, that was addressed to you.

Best regards,

Rita Yarnold
Bay Realty/President
559 Congress Street
Portland, Me. 04101

11-18-14

Ms. Grimando -

I was unable to make the meeting Sunday at the Munjoy Hill Neighborhood Organization, but wanted to express great concern for many of these proposed changes. The drastic reductions in lot size and setbacks, increasing density and requiring no parking for first 3 units, would change the landscape here on Munjoy Hill - affect light, increase crowding, and damage instead of enhance quality of life.

I am very much in favor of urban development, but even with the existing R-6 regulations, it is pretty easy to watch development go up that completely changes the landscape of streets and blocks.

I am also concerned that the next public meeting is Tuesday, November 25, during the week of Thanksgiving holiday, when many interested citizens will be away or with family.

I would very much like to be added to any e-mail list you have re the progress and process of proposed revisions to R-6.

Thanks very much.

Lynn Davey

9 Ponce St

Portland

207-773-6356

Hi, Christine:

Thanks for talking with me just now. Below is the notice that went around from WENA and that prompted my call.

If there is any mechanism for continuing to take public comment on this matter, I'd like it known that I am concerned about the 5 foot minimum on the sides of lots. For closely abutting properties this poses potential fire risks as well as maintenance difficulties (should workers need to have access to either structure). The current 10 foot setback seems much more reasonable and workable on both these issues. So I hope the City will leave well enough alone here.

If you have any questions, don't hesitate to be in touch; I'll keep following this process, too.

Thanks again and have a good weekend,
Liz Parsons
44 Winter Street

Ms Grimando, my wife Annie and I live on 32 North St on the corner of Sumner Court. If you can do so please send me a copy of the R6 Text Amendments the Planning Board will be considering on November 25. We, and several of our neighbors, are concerned that any proposed amendments would permit a multi-unit building to be built at the end of Sumner Court and that would allow Sumner Court to be used as the sole vehicle access to and from such a building.

Thank you,

JD Cowie

321-8615

Looks great! Perfect balance of needs and historic character.
Kudos!
Zack Barowitz

Re Proposed R-6 Zoning Changes and Resident Feedback

Dear Planning Board member,

I first heard of proposed changes to the R-6 zone from a neighbor only recently, and learned some of the details at a November 16 gathering at the Munjoy Hill Neighborhood Organization building. Attendees included individuals from the West End and Bayside as well as Munjoy Hill residents. We met to begin understanding the objectives and parameters of the proposed changes.

I left with several impressions:

- v Some residents are very knowledgeable, articulate and committed to their neighborhoods. They are also open-minded. Decisions on zoning changes would benefit from their insights.
- v Each R-6 neighborhood has its own character, opportunities and challenges. The proposed changes would affect various R-6 neighborhoods differently. For example, zoning changes which significantly reduce off-street parking requirements would be problematic on Munjoy Hill where shortages of on-street parking space is already acute. However, on-street parking is not a problem in some other areas. A broad brush approach to all R-6 zones would not be most effective.
- v Many attendees expressed support for more affordable housing. Unfortunately, long-term homeowners and tenants on Munjoy Hill are leaving due to the effects of rapid increases in property values, taxes, and rents. The proposed R-6 changes would accelerate these trends as properties with unbuilt yards or smaller buildings would increase financial incentives for tear-downs and rebuilds with larger structures. Some attractive nineteenth century housing would surely be lost.

As a property owner in Cumberland I recently received a survey asking for my opinions on possible zoning changes there. The survey was both detailed (which zones in town, if any, should be considered for reductions in minimum lot sizes) as well as open-ended (what did I like and dislike about living in Cumberland). The survey made resident opinions part of the planning process, and I suspect that the town obtained valuable input.

I request that the Planning Board take actions to educate residents in R-6 neighborhoods about the objectives and options of zoning changes, and gather substantive input from those residents before proceeding with unvetted, broad brush changes.

Thank you.

Brian Burwell

Hi All,

I'd like to add a couple of things to discussion about changes to the R6 zoning.

- The current zoning laws are both archaic and impractical. They specify a much lower density than exists currently and does not reflect current standards. Indeed nearly every house--upwards of 95%--in the affected areas (West End, East End, Parkside, SJV, Libbytown, etc.) is non-conforming to the current codes. That means that all the great houses in Portland could not be built today because the lot size is not big enough, they are not set back far enough, they are too close to the side neighbors, etc.

- As stated in the minutes, the changes are intended to ease restrictions on creating higher density; what that means is that it would be easier to add an in-law unit or an above the garage unit to one's home. By adding more units housing will become more affordable according to the laws of supply and demand.

- Apart from providing more housing, higher density will encourage more businesses (such as neighborhood groceries). It will also allow for infill of disused vacant lots.

- The changes will allow Portland to continue to be Portland; it will not allow for tall, out of character buildings in historic neighborhoods but rather encourage more of what Portlanders value in terms of greater walkability, cultural interaction, and quality of life.

I would be happy to discuss this matter further with anyone who would like to.

Thank you,
Zack

11-21-14

Dear Mr Jaegerman:

At the end of that mtg I asked a question I was promised an answer to, but I have not got it. The question was:
Could Frontage on Sumner Court (such as on Mr Gan's vacant lot there) be used to satisfy the proposed revised R6
street frontage requirement?

Please answer me or have someone in you group do so.

While I'm at it I also want the Board and its Staff to know that my wife Annie Cowie and I agree with and support
everything Pamela Jack and Devon Platt said in their letter to Ms Barhydt.

JD Cowie
32 North St
321-8615

Christine Grimando - Fwd: Re: My Question

From: Alex Jaegerman
To: Christine Grimando
Date: 3/5/2015 6:00 PM
Subject: Fwd: Re: My Question

Christine: Please include this email correspondence with the R-6 Public Comment.

>>> On 2/15/2015 at 12:00 AM, in message <C0026AD0-82A3-464B-AAC4-6ADB20A854BA@gmail.com>, Douglas <jimdoog@gmail.com> wrote:

Thank you, Mr Jaegerman, and thanks also to Ms Grimando and Ms Machado for your answer to my long-standing question.

I do have a question about your answer to it:

About the "driveway" you referred to: Must the owner of property (or of property to be developed) own all or part of its driveway?

Your answer suggests that although Sumner Court cannot be used to satisfy the R6 street frontage requirement, Sumner Court *might* be used for access to new building construction on Sumner Court, both during construction and after it, (presumably essentially *forever* after it).

I don't know if you or any of your staff, or any member of the Planning Board, has seen and walked down Sumner Court. If you do, you'll quickly notice that the house on 28 North Street is the southeasterly boundary of the 12-foot-wide bumpy dirt lane called Sumner Court. You'll have to evaluate whether heavy excavation and building construction equipment and vehicles can travel down Sumner Court without hitting or rattling that house and its foundation? Thus before your department and the Board *even contemplate* allowing Sumner Court to function as the "driveway" for a new apartment building on it, you and they *must* inspect and thoroughly evaluate it.

Again, thank you for answering "my question." I look forward to your response to my question and comment above.

JD Cowie
32 North St
321-8615

On Feb 13, 2015, at 4:49 PM, Alex Jaegerman <AQJ@portlandmaine.gov> wrote:

Douglas:

I have discussed your question internally and offer the following findings.

According to Bill Clark, in the Department of Public Services, Sumner Court is not an accepted City Street, so for that reason it would not qualify for required street frontage. Under Section 14-403, lots may be developed on unaccepted streets under certain conditions, however that provision also specifies a minimum street width of 35 feet, so Sumner Court would not qualify.

If the land along Sumner Court also had street frontage on another city street, for example Cumberland Avenue, it is possible that such a lot, or combination of lots if combined for this purpose, could satisfy the zoning street frontage requirement on that street. If this were the case, it would not require that the street frontage be used for access purposes. Under this scenario, if street frontage requirements were met on Cumberland, and, hypothetically, access were to be provided on Sumner Court, then the adequacy of that access would be determined in the process of subdivision and/or site plan review. Driveway access specifications are found in the Technical Manual.

The Technical Manual requires the following for driveways, under §1.7, Driveway Design: for residential development with 9 spaces or less the minimum driveway width of 10 feet and a maximum width of 20 feet, measured at the property line. For multi-family residential (or Commercial or Industrial) development with 10 spaces or more, the minimum width is 12 feet. Two way drives have a minimum width of 20 feet, though the preferred is 24 feet.

So, the short answer to your question is no, Sumner Court would not meet the zoning street frontage requirement. The long answer is that there might be a circumstance in which the land on Sumner Court could be developed, depending on the lot configuration, street frontage, and driveway requirements.

I hope this is responsive to your inquiry. Please don't hesitate to respond with any questions or further inquiry.

Alex.

Alexander Jaegerman, FAICP
Planning Division Director
389 Congress Street, Suite 400
Portland, ME 04101

Phone: (207)874-8724 >>> On 2/10/2015 at 3:32 PM, in message <E583AFF2-429B-4EFC-8C16-C9DC37200579@gmail.com>, Douglas <jimdoog@gmail.com> wrote:

Mr Jaegerman, assuming Sumner Court terminates at or near the southerly boundary of Mr Gan's property, I think it probably has enough frontage on it, be that 20 feet or 40. My question is, and has been: Does Sumner Court - it being a 12-foot-wide dirt lane, it *not* being an *actual* city street - *qualify* as a "street" for the purpose of meeting the city's R6 street frontage code?

JD Cowie

On Feb 10, 2015, at 12:49 PM, Alex Jaegerman <AQJ@portlandmaine.gov> wrote:

Hello Douglas:
My apologies for not replying sooner.

Christine Grimando and I are sitting down with Ann Machado tomorrow to look at Mr. Gan's Sumner Place property to see how the R-6 changes might affect this site.

I will get back to you again by the end of this week.

Alex.

Alexander Jaegerman, FAICP
Planning Division Director
389 Congress Street, Suite 400
Portland, ME 04101

Phone: (207)874-8724>>> On 1/24/2015 at 1:00 PM, in message
<71B54CAC-E5D0-4C09-B20A-B01525948B39@gmail.com>, Douglas
<jimdoog@gmail.com> wrote:

Mr Jaegerman:

You may recall it has been months since I asked the Planning Board whether frontage on Sumner Court - which I think is not a city street - can be used to satisfy the frontage requirements in the City's building codes.

I have asked the question at two and possibly three board meetings, and in more than one email to you, but I've yet to get an answer.

Perhaps you can appreciate how I feel about this.

Let me know if your department is unable to answer that question, and who you suggest I should contact about it. If you are able to answer it, let me know when I will get it.

JD Cowie
32 North St
321-8615

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Christine Grimando - Fwd: Re: Alex Jaegerman Interpretation of Possible Sumner Court Development

From: Alex Jaegerman
To: Christine Grimando
Date: 3/5/2015 6:03 PM
Subject: Fwd: Re: Alex Jaegerman Interpretation of Possible Sumner Court Development

Christine: Please include this email correspondence in the R-6 Public Comment attachment.

>>> On 2/26/2015 at 11:30 AM, in message <477BA1E2-7CBB-4683-A023-6EDDBAEC9531@gmail.com>, Pamela Jack <pamjack1@gmail.com> wrote:

Hi Alex,

I understand there's another public hearing on March 10th to discuss the R-6 changes.

I'm following up on Kevin Donoghue's email below to find out what steps are being taken by your office to ensure that the qualifying frontage must be used as the primary access point for any new development in the R-6 zone? Any text changes to support this effort should naturally be made prior to the next meeting.

I'd appreciate a response at your earliest opportunity.

Kind regards.

Pam Jack
26 North Street

Sent from my iPad

On Feb 15, 2015, at 8:06 PM, Kevin Donoghue <kjdonoghue@portlandmaine.gov> wrote:

Thanks for writing,
I think we need Alex to clarify whether indeed Sumner could be used for access and how we might ensure that the qualifying frontage be the primary entry.

Thank you,

On Feb 15, 2015 7:09 PM, "Pamela Jack" <pamjack1@gmail.com> wrote:

Hi Kevin:

My neighbor, Doug Cowie, recently asked Alex Jaegerman if Sumner Court would meet the requirements for street frontage in the revised R-6 zoning language. Below is Alex's response, which exposes an obvious loophole in the

R-6 language that developers will undoubtedly try to exploit wherever possible. It's a prime example of the unintended consequences of some of the R-6 changes.

As you know, Ron Gan owns several lots on Sumner Court, as well as an abutting lot at 47 Cumberland Avenue. As Jaegerman points out, given that Sumner Court is an unaccepted City street, it does not meet the street frontage requirements, nor do the lots with frontage on Sumner Court qualify for development under Section 14-403, since Sumner Court is only 12' wide. It is clear that the ordinance is written to prevent development on a street as narrow as Sumner Court.

Gan's Cumberland Avenue lot has less than 33' of street frontage, which does not meet the current 40' minimum street frontage requirement. However, it will more than meet the proposed new 20' requirement. I was shocked to learn it is the City's position that if Gan simply merges his Sumner and Cumberland lots, his Cumberland Avenue frontage can be used to satisfy the street frontage requirement **without having to actually use it for access purposes**. Jaegerman goes on to say that Sumner Court could still be used for access under this scenario as a driveway, rendering the street frontage requirement--designed to prevent just such development--meaningless in this case.

How is this possible? Although this interpretation may satisfy the letter of the law as currently written—more by omission than intent—it clearly does not satisfy the spirit or the true intention of the rules in the ordinance. Over the 10 years that Devon and I have owned our building on North Street, Gan has relentlessly tried to pursue the development of his lots on Sumner Court by any means possible. In the interest of public safety, our group of Sumner Court neighbors has spoken against Gan's attempts at a Zoning Appeal, a Practical Difficulty Variance, and, most recently, an attempt at a Zoning Text Amendment. Since the rules in the R-6 ordinance have never allowed development of Mr. Gan's lots, he has made numerous attempts to change those rules, all of which were denied by City officials. The governing officials from Planning and Zoning have agreed over the past decade that Sumner Court is not an appropriate location for development given its unique and limited access.

The idea that the Sumner Court lots might now be developed based solely on the fact that a tiny portion of the abutting land not even used for access happens to touch a City street is an absurd and unacceptable technicality. It is important to point out that Gan does not wish to pursue access to any development on his Sumner Court lots via his 47 Cumberland Avenue property, since that would require the demolition of the single family home on that lot, and thus would significantly add to the cost of the project. Therefore, Gan has continued to insist on using Sumner Court as the access point.

My understanding is that the proposed R-6 zoning changes are designed to allow development on certain small lots that may otherwise be appropriate for development, but haven't met the rules in the ordinance mainly due to their small size. The Sumner Court lots have not and still do not meet this criteria, due to their limited access, and are still not appropriate for development despite any changes in the R-6 zoning language.

According to Jaegerman, development using Sumner Court as the access could be possible unless this loophole in the ordinance is closed. What can be done? Shouldn't language be added requiring that the **minimum street frontage for any development must also be used as the access point**? Isn't that the intention of the current ordinance language? Is there some other way to fix this weakness in the ordinance that would continue to protect the Sumner Court lots from being developed, since there is so much evidence they shouldn't be? Based on Jaegerman's interpretation, unless language is either added or modified now and before the R-6 changes are finalized, City officials and neighbors may be powerless to prevent development on Sumner Court.

We would appreciate your guidance and assistance with this matter, and look forward to hearing back from you at your earliest convenience.

Respectfully,

Pamela Jack & Devon Platte

From: "Alex Jaegerman"
<AQJ@portlandmaine.gov>
Date: February 13, 2015 at 4:49:50 PM EST
To: "Douglas" <jimdoog@gmail.com>
Cc: "Ann Machado"
<AMACHADO@portlandmaine.gov>, "Christine Grimando" <CDG@portlandmaine.gov>, "Jeff Levine" <JLEVINE@portlandmaine.gov>
Subject: Re: My Question

Douglas:

I have discussed your question internally and offer the following findings.

According to Bill Clark, in the Department of Public Services, Sumner Court is not an accepted City Street, so for that reason it would not qualify for required street frontage. Under Section 14-403,

lots may be developed on unaccepted streets under certain conditions, however that provision also specifies a minimum street width of 35 feet, so Sumner Court would not qualify.

If the land along Sumner Court also had street frontage on another city street, for example Cumberland Avenue, it is possible that such a lot, or combination of lots if combined for this purpose, could satisfy the zoning street frontage requirement on that street. If this were the case, it would not require that the street frontage be used for access purposes. Under this scenario, if street frontage requirements were met on Cumberland, and, hypothetically, access were to be provided on Sumner Court, then the adequacy of that access would be determined in the process of subdivision and/or site plan review. Driveway access specifications are found in the Technical Manual.

The Technical Manual requires the following for driveways, under §1.7, Driveway Design: for residential development with 9 spaces or less the minimum driveway width of 10 feet and a maximum width of 20 feet, measured at the property line. For multi-family residential (or Commercial or Industrial) development with 10 spaces or more, the minimum width is 12 feet. Two way drives have a minimum width of 20 feet, though the preferred is 24 feet.

So, the short answer to your question is no, Sumner Court would not meet the zoning street frontage requirement. The long answer is that there might be a circumstance in which the land on Sumner Court could be developed, depending on the lot configuration, street frontage, and driveway requirements.

I hope this is responsive to your inquiry. Please don't hesitate to respond with any questions or further inquiry.

Alex.

Alexander Jaegerman, FAICP
Planning Division Director
389 Congress Street, Suite 400
Portland, ME 04101

Phone: (207)874-8724>>> On 2/10/2015 at 3:32 PM, in message <E583AFF2-429B-4EFC-8C16-C9DC37200579@gmail.com>, Douglas <jimdoog@gmail.com> wrote:

Mr Jaegerman, assuming Sumner Court terminates at or near the southerly boundary of Mr Gan's property, I think it probably has enough frontage on it, be that 20 feet or 40. My question is, and has been: Does Sumner Court - it being a 12-foot-wide dirt lane, it *not* being an *actual* city street - *qualify* as a "street" for the purpose of meeting the city's R6 street frontage code?

JD Cowie

On Feb 10, 2015, at 12:49 PM, Alex Jaegerman <AQJ@portlandmaine.gov> wrote:

Hello Douglas:
My apologies for not replying sooner.

Christine Grimando and I are sitting down with Ann Machado tomorrow to look at Mr. Gan's Sumner Place property to see how the R-6 changes might affect this site.

I will get back to you again by the end of this week.

Alex.

Alexander Jaegerman, FAICP
Planning Division Director
389 Congress Street, Suite 400
Portland, ME 04101

Phone: [\(207\)874-8724](tel:(207)874-8724)>>> On
1/24/2015 at 1:00 PM, in
message <71B54CAC-E5D0-4C09-B20A-B01525948B39@gmail.com>,
Douglas
<jimdoog@gmail.com> wrote:

Mr Jaegerman:
You may recall it has been
months since I asked the
Planning Board whether
frontage on Sumner Court -
which I think is not a city
street - can be used to
satisfy the frontage
requirements in the City's
building codes.
I have asked the question
at two and possibly three
board meetings, and in
more than one email to
you, but I've yet to get an
answer. Perhaps you can
appreciate how I feel
about this.
Let me know if your
department is unable to
answer that question, and
who you suggest I should
contact about it. If you are
able to answer it, let me
know when I will get it.

JD Cowie
32 North St
321-8615

Notice: Under Maine law,
documents - including e-mails -
in the possession of public
officials or city employees about
government business may be
classified as public records.
There are very few exceptions.
As a result, please be advised
that what is written in an e-mail
could be released to the public

and/or the media if
requested.

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

WESTERN PROMENADE NEIGHBORHOOD ASSOCIATION

March 9, 2015

Portland Planning Board
389 Congress Street
Portland, ME 04101

Re: Proposed Changes to the R-6

Dear Planning Board Members:

I am writing as the President of the Western Promenade Neighborhood Association to provide comments regarding the proposed changes to the R-6 zones in the City.

First, we appreciate and agree with the basic approach of better conforming zoning to the existing development pattern and to allow existing structures more flexibility in meeting the needs of owners. That said, “the devil is in the details” and we have the following comments:

1) Unintended Consequences We are very concerned that the proposed significant increase in density will result in the development of even more housing that is unaffordable to the vast majority of Portland residents. In particular, we continue to be concerned about the potential for the smaller, affordable single-family houses to be cut up to small condos for couples. C

2) Focus First As suggested in a prior email comment, perhaps the focus should first be on “stranded lots”, development of which is constrained by existing zoning. Apply the proposed new zoning regime to these lots and see what kind/cost of housing is proposed before making a wholesale change in the entire R-6.

3) Development and Development Criteria It is evident that the reduction or functional elimination of many of the R-6 zone limitations is a significant benefit to the development community. The City and its citizens should get something in exchange for the reduction in the limits:

- *Higher Building and Energy Efficiency Requirements* – As a *quid pro quo* for the elimination of many limits on building and/or renovation, the City should adopt its own building code for the R-6 which would, for example, require any new construction and/or major renovations to be done to a LEED standard or the highest energy efficiency standards that can reasonably be met.
- *Provision for Plantings and Planting Requirements* – Trees, shrubs and plantings are visually appealing, but also reflect and absorb heat. An accessible example is the difference between parking one’s car on a hot day on a shopping center parking lot, versus a city street with trees and plantings. Studies have been conducted showing a “heat trap” effect in cities without plantings. With the

changes in reduced set-backs, etc., the amount of trees and plantings might be minimal, if left to a developer. The City should mandate a provision for trees and plantings as part of the R-6 revisions.

4) Impacts. The R-6 proposals simply lower the restrictions on building. As described above, the City and its citizens should not, as an unintended result, lose what is now an appealing city-scape. Even renovations and conversions have an impact. Additional meters, wiring and non-owner occupations will change the current “feel” of Portland, and likely not in a positive way.

Allowing garage openings of any size in the front façade of new townhouses will bring a undesirable suburban design element to the peninsula and does not in any way reflect the current development pattern of garages or off street parking spots to the side or rear of properties. NO garage opening should be allowed in front facades, period.

The City should consider expanding the Historic District areas to allow oversight on new construction. For example, aesthetically, when previously one started up Congress into Munjoy Hill, the sense was that one was entering a neighborhood. Just the few higher elevation structures recently constructed on Congress Street have changed how that is experienced. Because of the impact of those few buildings, it feels now that one remains in an extension of an urban core area.

Lastly, we add an important general comment. The sentiment expressed by the staff and Planning Board seems to imply that new building in the R-6 will necessarily result in more affordable housing. That idea is misplaced. The most expensive and desirable land, of which there is a scarcity, is on the peninsula. If a developer is going to incur the expense of acquiring such land and building on it, it is not going to be for the purposes of creating affordable housing. It will be to capture the explosive market demand both in the sale and rental market. As Economics 101 seems to indicate that increased density will allow a property owner to set a higher asking price, which would then be spread over the increased number of units. Depending on the market premium the added density provides, it seems unlikely that workforce housing will be produced.

The Western Promenade Neighborhood Association appreciates the early outreach to neighborhoods and encourages the Board to give very careful consideration to the many concerns being expressed by residents.

Very truly yours,

Anne B. Pringle
President

Order 210-14/15
Tab 37 4-6-15

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

**CITY OF PORTLAND
IN THE CITY COUNCIL**

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**FOURTH AMENDMENT TO CONDITIONAL ZONE AGREEMENT
RE: PROPERTY IN THE VICINITY OF
DIAMOND COVE/GREAT DIAMOND ISLAND**

WHEREAS, on July 15, 1985 by Order 42-84/85, the Portland City Council approved a Conditional Rezoning of certain property located on Great Diamond Island, formerly known as Fort McKinley and referred to as the "Premises" in said Conditional Rezoning; and

WHEREAS, the Conditional Rezoning has since been amended pursuant to amendments dated August 16, 2004, September 15, 2008, and February 22, 2012 (hereinafter, as amended, the "CZA"); and

WHEREAS, on April 17, 2014, the City of Portland entered into a Lease Agreement (later amended on September 30, 2014) with the Diamond Cove Homeowners Association pursuant to which the City has agreed to lease space on the Premises and install a solid waste transfer and recycling station in order to more efficiently handle solid waste management on both Great Diamond Island and Little Diamond Island (hereinafter, the "Lease Agreement"); and

WHEREAS, due to constraints the Premises, the only appropriate location for the transfer station is within a portion of the Premises located as shown on Attachment A and previously designated as "Dedicated Open Space" which, under the CZA may not be developed;

WHEREAS, pursuant to the Lease Agreement, on January 23, 2015, the City of Portland's Director of Public Services filed an application to amend the CZA and to modify the boundary of the Dedicated Open Space in order to allow the construction, maintenance and operation of the transfer station;

WHEREAS, on March 24, 2015, the Portland Planning Board recommended the approval of the amendment to the CZA; and

WHEREAS, the City council hereby finds and declares that said amendments to the Conditional Rezoning are pursuant to and consistent with the City's Comprehensive Plan as well as with existing and permitted uses in the CZA;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Portland, Maine, in the Council assembled as follows:

Paragraph 1 of the CZA in Order 42-84/85, as further amended in Orders 33-04/05, 55-08/09, and 114-11/12, is amended as follows:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, ~~and the construction of minor additions and improvements thereto, and the construction of a solid waste transfer and recycling station in a form substantially similar to that depicted in the plan attached hereto as Attachment B,~~ there shall be no construction or development of any new principal building or structure on the Premises. Except as otherwise specified herein, all portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

and, **BE IT FURTHER ORDAINED that:**

The area described in Attachment C, being the premises leased under the Lease Agreement, be removed from the Dedicated Open Space as originally identified in the CZA.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Alexander Jaegerman, Planning Division Director

DATE: March 25, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan, Jeff Levine, Mike Bobinsky, Jennifer Thompson

SUBJECT: Fourth Amendment to 1985 Conditional Zoning Agreement
Fort McKinley, Great Diamond Island

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading April 6, 2015 Final Action April 27, 2015

Can action be taken at a later date: Yes X No (If no why not?)

Public notices will appear in the newspaper and be mailed in advance of the public hearing. Project start is time-critical and a June action would delay.

PRESENTATION: Planning Board Chair Stuart O'Brien will make a brief presentation. Staff from Planning and the Department of Public Services (applicant) will be present to answer questions.

I. SUMMARY OF ISSUE (Agenda Description)

On March 24, 2015, the Planning Board voted 4-0 (O'Brien abstaining; Eaton and Morrisette absent) to recommend amendments to an existing IR-3 conditional zoning agreement (CZA) for Fort McKinley, Great Diamond Island, to the City Council. The amendment was requested by the City's Department of Public Services to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years. The amendments include a minor change to the boundary of the designated open space near the "laundry building" and a text amendment/plan reference to confirm the use is an exception to the limitations referenced in para 1 of the CZA. The 1985 CZA anticipated the possibility of a municipally-operated island solid waste disposal facility being created (para 6).

II. REASON FOR SUBMISSION (Summary of Issue/Background)

Current waste management on the island consists of a solid waste truck parked on property on Great Diamond Island, that is frequently transported off the island. This arrangement is not sufficiently or effectively serving the needs of the island's residents and is costly and inefficient to operate. Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the Diamond Cove Homeowner's Association (DCHA) – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island's waste is would allow more efficient consolidation and transportation. The DCHA and the City have negotiated a lease to allow the construction of a municipal transfer station on land owned by the DCHA. The site was chosen to be near the barge landing, to minimize truck travel and minimize impact on old growth trees and open space; the agreed site impacts .9 acre of open space and this requires the amendment to the 1985 CZA and associated Open Space Designation.

III. INTENDED RESULT

The proposed amendments to the conditional zoning agreement are designed to allow the city to construct a solid waste transfer station on the identified site, for which a lease has already been approved by the City Council.

IV. COUNCIL GOAL ADDRESSED

The proposed amended conditional zoning agreement addresses the following council goal:

Improve City Services: Operate the city government in an efficient and effective manner that is responsive to all segments of the community in a manner that is transparent and accountable.

V. FINANCIAL IMPACT

The amendment to the CZA facilitates the early implementation of the proposed transfer station, which will lead to efficiencies and associated cost savings in addition to providing an improved service to the island.

VI. STAFF ANALYSIS

The proposed municipal transfer station was envisaged in the 1985 CZA (para 6) and the Department of Public Services and DCHA have worked for several years to identify a suitable site and collaborate on its detailed location and design. The lease between the City and the DCHA includes numerous provisions to protect existing trees; buffer and screen the site; and control operational aspects such as truck trips, parking and noise. The proposals are subject to a Level II Site Plan Review and MDEP Solid Waste Program Permit.

The Planning Board considered the three elements of the proposed amendments to the 1985 CZA:

- The impact on the designated open space: The area to be removed from the 1985 designation is 39,565 sq ft (.9 acre) and includes land that is partially disturbed at present. The 1985 CZA does not mention the old tree growth areas, so the CZA amendment is not required to address this question although it would have minimal impact on old growth;
- The exception to the original text that limits construction or development: The first section of amended text adds the transfer station area to the existing exceptions and limits its scale and location by referring to the Site Plan. The use is consistent with the 1985 CZA as it envisaged a possible municipally-operated island solid waste disposal facility being created;
- Documentation of the area removed from open space designation: The 1985 CZA plan showing the designated open space is diagrammatic and it would be difficult to show a precise revised boundary line except by reference to the area leased for the transfer station. Therefore the metes and bounds of that area are included in the amendment to clarify where the location of the open space designation is revised in the vicinity of the transfer station.

The Board found the proposed amendments to be consistent with the City's Comprehensive Plan in that the Plan contemplates the need to provide sufficient public services to the City's islands.

VII. RECOMMENDATION

On March 24, 2015, the Planning Board held a Hearing on the proposed amendment and voted 4-0 (O'Brien abstaining; Eaton and Morrisette absent):

That the proposed fourth Amendment to the 1985 IR-3 Conditional Zone Agreement for Fort McKinley on Great Diamond Island is consistent with the Comprehensive Plan of the City of Portland and with the existing and permitted uses in the Conditional Zone Agreement. The Planning Board therefore recommends to the City Council approval of the proposed amendment to the 1985 Conditional Zone Agreement as set out in the Report.

VIII. LIST ATTACHMENTS

1. Order (Amendment attached as of 3.25.2015; order will be similar)
2. 1985 CZA
3. Planning Board Report to City Council (to be forwarded under separate cover)

Prepared by: Jean Fraser

Date: 3.25.2015

City of Portland, Maine

IN THE CITY COUNCIL

045089

AMENDMENT TO PORTLAND CITY CODE

SECTION 14-49 (ZONING MAP)

RE: CONDITIONAL REZONING OF FT. MCKINLEY

WHEREAS, Diamond Cove Associates is the record owner of certain land, with the buildings thereon, situated on the northerly portion of Great Diamond Island and commonly known as the Ft. McKinley property; and

WHEREAS, in the process of a comprehensive land use study and rezoning of the Portland islands by the City, Diamond Cove Associates requested that a portion of said property be rezoned from the R-2 Residential Zone to the RR-3 Island Residential Zone; and

WHEREAS, the Planning Board, pursuant to 30 M.R.S.A. Section 4962(1)(I), and after notice and hearing and due deliberation thereon, recommended rezoning a portion of the property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the City Council hereby finds and declares that said conditional rezoning would be pursuant to and consistent with the City's comprehensive plan and would satisfy the guidelines set forth in Section 14-145.13 of the Portland City Code, all for the reasons contained in the Planning Board's report accompanying this Amendment;

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

THAT, the Zoning Map of the City of Portland, Maine (1958), as amended, on file in the Office of the Director of Planning and Urban Development (incorporated into this code by Section 14-49) be further amended as shown on the attached fragmentary map entitled "Fort McKinley Property Zoning Map (Great Diamond Island)", subject, however, to the Conditions and Restrictions attached hereto.

CONDITIONS AND RESTRICTIONS

The following conditions and restrictions are imposed by the City of Portland (the City) on Diamond Cove Associates (the Owner) as conditions of the rezoning of the property described on the map attached hereto (the Premises) from the R-2 Residential Zone to the IR-3 Island Residential Zone:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, and the construction of minor additions and improvements thereto, there shall be no construction or development of any new principal building or structure on the Premises. All portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

2. Completion of development. The development of the Premises as aforesaid shall be substantially completed within three (3) years after the issuance of all licenses, permits and approvals required and requiring final action by any administrative agency, board or commission, including but not limited to subdivision, site plan and site location of development approvals, but not including building, plumbing, electrical or similar permits, which licenses, permits and approvals shall hereafter be diligently pursued; provided, however, that the time for performance hereunder shall be extended for the time during which performance is delayed by reasons wholly beyond the Owner's control, including but not limited to strikes, lock-outs, labor disputes, inability to procure materials, failure of power, riots, war, insurrection, administrative or judicial delay and similar reasons, but not including financial hardship or business conditions; provided, further, that the Planning Board may, after notice and hearing, extend the time for performance hereunder for up to one (1) additional year if it finds that substantial progress has been made toward completion, and that there is a reasonable likelihood of substantial completion within the time as extended.

3. Maintenance of streets, walks and landings. All streets and ways, walks and pedestrian rights of way, and landings, floats and docks on the Premises, including but not limited to those to which the public has a right of access, shall be kept reasonably safe and passable at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that the City may, from time to time, designate such areas as need not be kept clear of ice and snow when or where, in its opinion, the public health, safety and welfare do not require it; provided, further, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including

but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

4. Maintenance of utilities. All utilities, and related infrastructure and improvements on the Premises, including but not limited to water, power, communications, sewers and drains, surface drainage ways, street lights and hydrants, shall be kept fully operational and in good repair at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

5. Disposal of sanitary waste. All sanitary waste generated on the Premises shall be collected and disposed of on the Premises by means of a community sewer and secondary treatment system which complies with all applicable federal, state and local regulations, and at the Owner's expense.

6. Disposal of solid waste. All solid waste generated on the Premises shall be collected and disposed of on the mainland or if, in the City's opinion, it would not create an unreasonable burden thereon, at a municipally-operated island solid waste disposal facility, in a manner which meets all applicable federal, state and local requirements, and at the Owner's expense.

7. Fire protection, public safety and emergency services. Before occupancy of the Premises, or any portion thereof, the Owner shall, at its own expense, provide to the City:

- (a) a fully equipped "Quint" truck, so-called, or its equivalent, for fire protection purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City under a written net lease-purchase agreement in a form mutually satisfactory to the parties and upon commercially reasonable terms, at the end of which lease term title to said vehicle shall be transferred to the City free and clear of all liens and encumbrances, and at no additional charge;
- (b) a fully equipped multi-purpose truck van, for public safety and emergency purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City for its useful life under a written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar (\$1.00); and

- (c) a building or buildings, or portions thereof, suitably located on the Premises, for permanent maintenance and storage of said vehicles and related apparatus and equipment, and housing of at least two (2) City personnel associated therewith, which facility shall conform to City specifications and be leased to the City under a ninety-nine (99) year written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar (\$1.00), and delivery of possession on a "turn-key" basis.

Upon the City's occupancy of said facility, the Owner shall, at its own expense, provide at all times thereafter a number, not to exceed two (2), of qualified private personnel equal to the number of City personnel then assigned thereto, which private personnel shall be on the Premises and available at all times on an on-call basis to assist said City personnel in the rendering of fire protection, public safety and emergency services on or to the Premises; provided, however, that nothing herein shall constitute any representation or commitment by the City to provide any particular level of staffing or services. Said private personnel shall be trained and equipped for such purposes by the City and at its expense, and shall be under the direction and supervision of authorized City personnel at all times while so engaged; provided, however, that in no case shall said private personnel be deemed agents or employees of the City for any purpose, including but not limited to workers' compensation, unemployment compensation, tort claims liability and collective bargaining; provided, further, that notwithstanding the foregoing, in the event that the City is held liable for any claim arising out of or relating to any actions of said private personnel, which actions were not pursuant to and consistent with the directions of authorized City personnel, the Owner shall indemnify and save forever harmless the City from and against any and all such claims.

8. Water transportation service. The Owner shall use its best efforts to secure from the Casco Bay Island Transit District year-round common carrier water transportation service to, from and between the Portland waterfront and Diamond Cove via a suitable docking facility on the Premises and on a schedule to be established by the carrier based upon passenger demand; provided, however, that in the event that such service is or at any time becomes unavailable, the Owner shall, at its own expense, provide an equivalent alternative to such service, subject only to the approval thereof by the Public Utilities Commission, or such other regulatory authority having jurisdiction thereof.

9. Restrictions on motor vehicles. Except for vehicles used primarily for construction, maintenance, service and the common transportation of goods and passengers, and fire protection, public safety and emergency vehicles, no motor vehicles, as defined in 29 M.R.S.A. Section 1(7), but including snowmobiles, shall be operated or stored, temporarily or otherwise, on the Premises.

10. Applicability of other laws. The development, use and occupancy of the Premises shall be subject to all other applicable laws, ordinances, regulations and requirements of the City as they may from time to time exist, and neither these conditions or restrictions nor the performance of any obligation hereunder shall constitute compliance therewith or prevent the enforcement thereof, any violation of which shall also constitute a breach of these conditions and restrictions, any breach of which shall also constitute a violation of Chapter 14, Article III (Zoning) of the Portland City Code.

11. Successors bound. These conditions and restrictions shall bind the Owner, its successors and assigns, of or to the Premises, or any portion thereof or any interest therein, including but not limited to any security interest, and any person in possession or occupancy of the Premises, or any portion thereof, and shall inure to the benefit of and be enforceable by the City. The Owner shall, at its own expense, record a copy of these conditions and restrictions in the Cumberland County Registry of Deeds, and shall, by deed, covenant, declaration of condominium or other recorded or recordable instruments, as appropriate, ensure that these conditions and restrictions are enforceable by the City against all such successors, assigns and persons. Nothing herein shall be deemed to limit the Owner's right of alienability of the Premises, or any portion thereof, subject to these conditions and restrictions, which conditions and restrictions shall run with the land and be binding upon the Owner, its successors and assigns, as their interests may appear.

12. No reliance or estoppel. Nothing in these conditions or restrictions shall constitute any representation or commitment by the City to retain the zoning classification of the Premises, or shall entitle the Owner to rely thereon for any purpose, or shall estop the City from any future rezoning or exercise of other authority with respect to the Premises. Nothing herein shall be deemed to preclude the Owner from petitioning the City for any future rezoning of the Premises or other property in the vicinity thereof; provided, however, that nothing herein shall constitute any representation or commitment by the City to grant such a petition or otherwise act thereon.

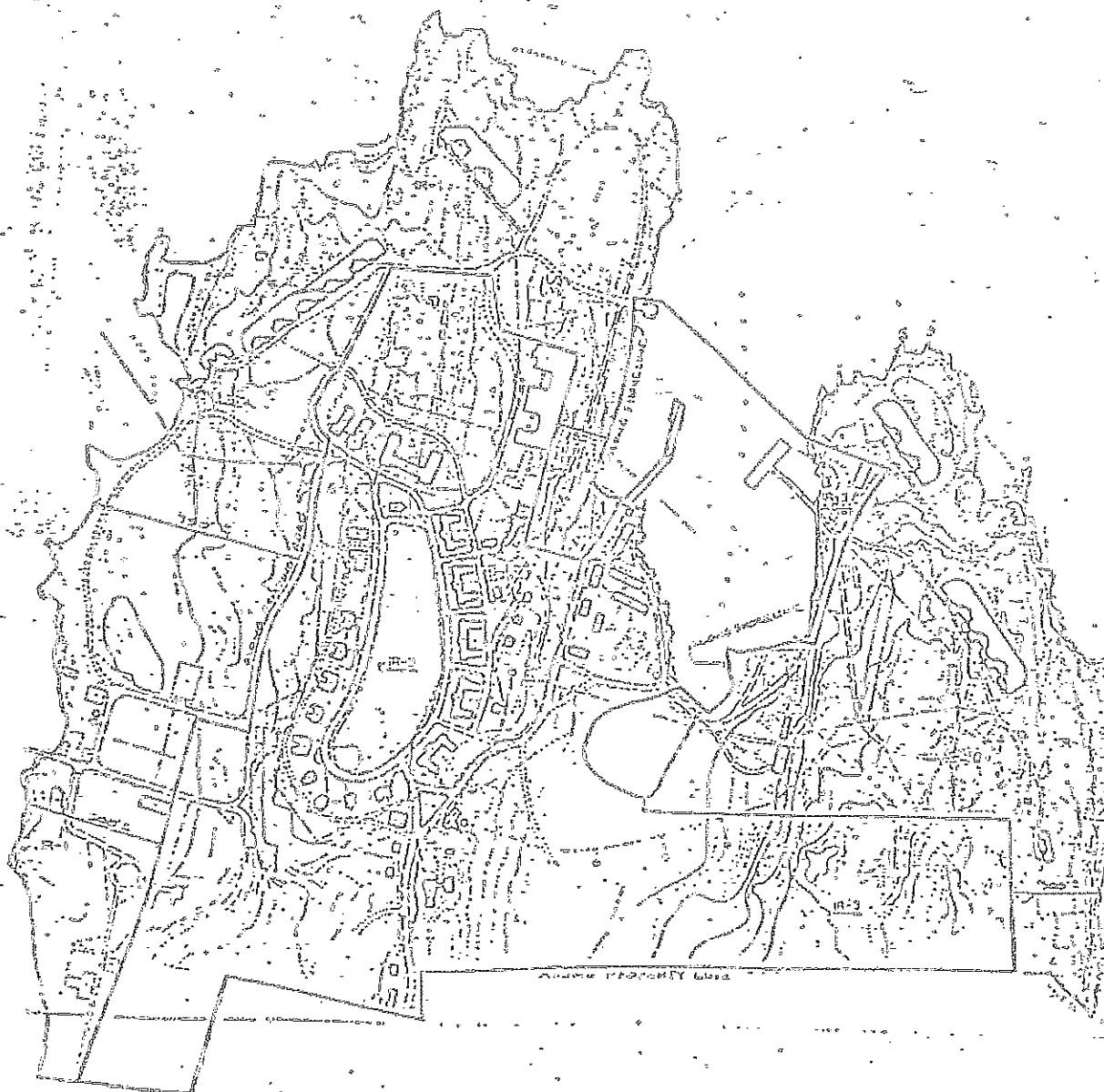
13. Breach. In case of any breach of these conditions and restrictions, and except as otherwise hereinbefore provided, the City shall, after giving written notice to the Owner and a reasonable time to cure not to exceed six (6) months, refer the same to the Planning Board, which shall, after notice and hearing, make a recommendation to the City Council whether to rezone the Premises, or any portion thereof, which recommendation shall be advisory only.

14. Declaration of invalidity. In the event that these conditions and restrictions, or any portion thereof, are declared invalid for any reason by a court of competent jurisdiction, the City shall invoke the same procedure as hereinbefore provided for breach of these conditions and restrictions.

15. Remedies not impaired. No failure or delay by the City to enforce any of these conditions and restrictions shall impair any remedy available for breach hereof, or constitute a waiver of or acquiescence in any breach hereof, the remedies for which shall be cumulative.

7/15/85

FORT MCKINLEY PROPERTY ZONING MAP
(GREAT DIAMOND ISLAND)



NOTE: SHORELAND ZONE LINE EXTENDS INLAND A DISTANCE
OF 250 FEET FROM THE NORMAL HIGH WATER MARK
OF THE BAYS, COVES, SOUNDS, INLETS AND OPEN
WATERS OF CASCO BAY.
(49)

7/15/85

Diamond Cove

GREAT DIAMOND ISLAND.

PORTLAND, ME

DEVELOPER : DICTAR ASSOCIATES

PORTLAND, ME

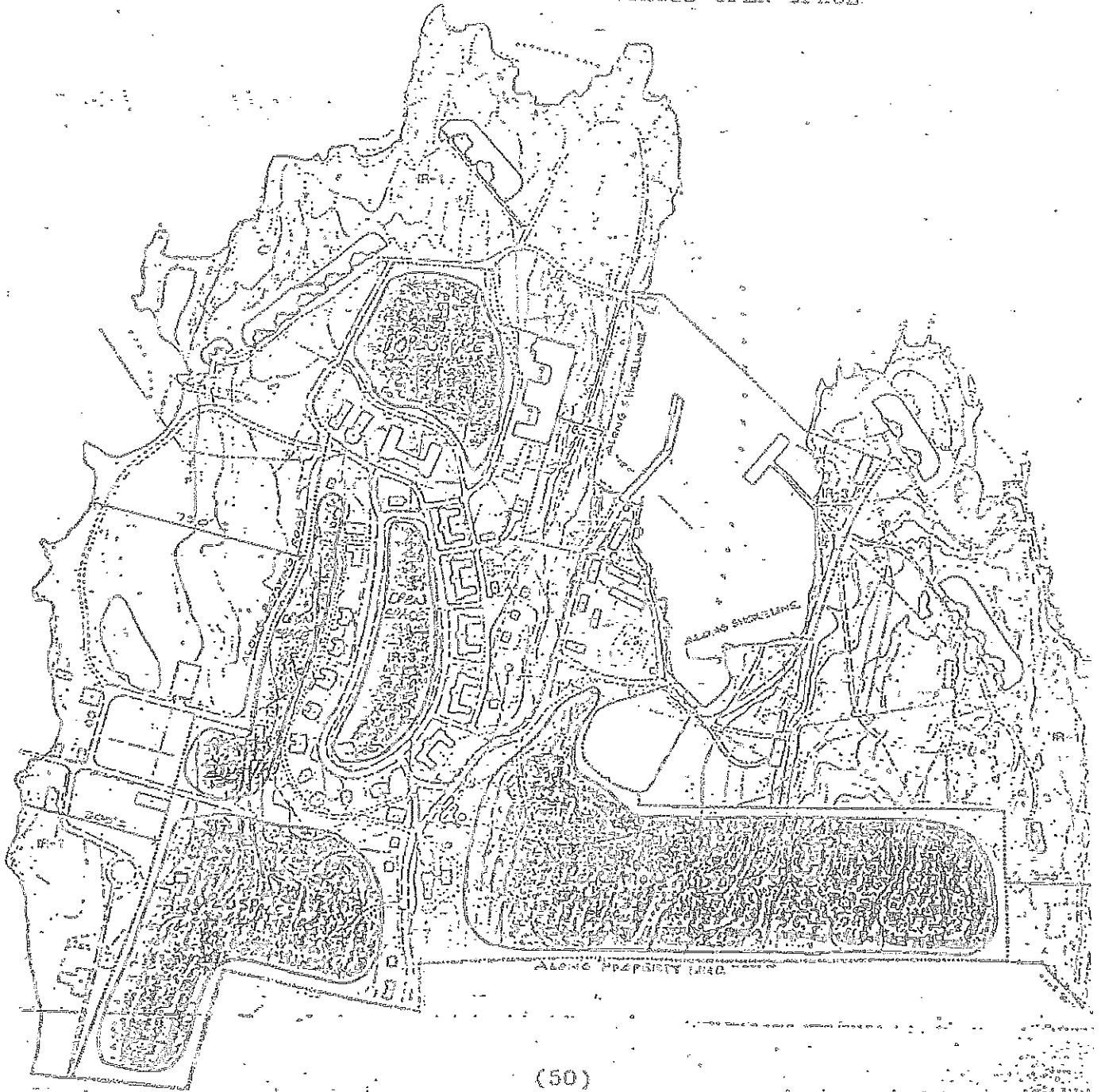


UNIVERSITY OF MAINE SYSTEM
SCHOOL OF FORESTRY
1000 UNIVERSITY AVENUE
ORONO, ME 04468

Geological Features, Topography and Elevation



DEDICATED OPEN SPACE



AMENDMENT TO PORTLAND CITY
CODE SECTION 14-49 (ZONING
MAP) SECTION 14-49 (ZONING
MAP) RE: CONDITIONAL
REZONING OF FT. ROCKWELL

IN THE CITY COUNCIL

JUNE 12 1985

Given a first reading. Public
hearing held.

JUNE 24 - Public hearing held.
Councillor Smith moved, seconded
MacWilliams to table to July 15th
afternoon City Council Meeting,
passed 7 yeas.

JULY 15 - Removed from the table.
Motion to replace with substitute
amendment, passed, 8 Yeas, and
passed, as amended, 8 Yeas.

Item #98 dated July 15, 1985 is relevant to
this item. Titled Access For Island Sub-
divisions, it refers to this item.

Jane Durgin

Attest: *Jane Durgin*
City Clerk

STATE OF MAINE
CUMBERLAND, ss.

JAN 27 28, 1986

Personally appeared the above-named Jane Durgin and
acknowledged the foregoing instrument to be her free
act and deed in her said capacity.

EMILIE CURRAN

RECEIVED

RECORDS SECTION OF DEEDS

1985 SEP 28 PM 3:32

CUMBERLAND COUNTY

[Signature]



PLANNING BOARD REPORT
TO
CITY COUNCIL
PORTLAND, MAINE

Amended 1985 Conditional Zone Agreement for Fort McKinley
Fourth Amendment
in vicinity of Fort McKinley and Wood Side Drive, Great Diamond Island
City of Portland Department of Public Services: Applicant
Project ID 2015- 011

[Note: The Transfer Station Site has been given a new E-911 street address:
11 Wood Side Drive, Portland, ME 04109]

Submitted to: Portland City Council From: Portland Planning Board Second city Council Reading: April 27, 2015	Prepared by: Jean Fraser, Planner Date: March 25 th , 2015 CBL: 083E B022 and 083B M002 (formerly within 083B M001001)
--	--

I. INTRODUCTION

The City of Portland Department of Public Services is requesting the City Council's consideration and adoption of proposed amendments to the 1985 IR-3 Conditional Zone Agreement (CZA) for Fort McKinley on Great Diamond Island (Application in Attachment A and the 1985 CZA is in Attachment 1). Their request is to amend the conditional zoning to allow the construction of a solid waste transfer and recycling station that has been the subject of discussions for several years. The 1985 CZA anticipated the possibility of a municipally-operated island solid waste disposal facility being created (para 6 on page 3 of Attachment 1).

The amendment is primarily related to the need for the transfer station to be located on the edge of the area designated as open space in the 1985 CZA (see location on the original designated open space plan in the 1985 CZA to right). The amendment also revises one paragraph (para 1 on page 2 of Attachment 1) to allow the proposed use and to amend the designated open space plan.

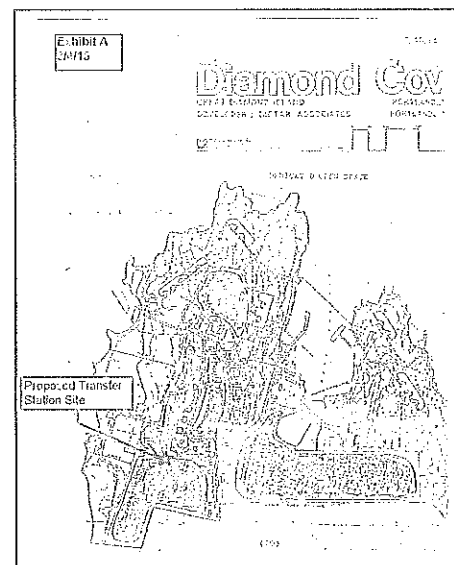
The Planning Board held a public hearing on March 24, 2015 and voted 4-0 (O'Brien abstained; Eaton and Morrisette absent) in favor of the following motion:

That the proposed fourth Amendment to the 1985 IR-3 Conditional Zone Agreement for Fort McKinley on Great Diamond Island is consistent with the Comprehensive Plan of the City of Portland and with the existing and permitted uses in the Conditional Zone Agreement. The Planning Board therefore recommends to the City Council approval of the proposed amendment to the 1985 Conditional Zone Agreement as set out in the Report.

Applicant: City of Portland Department of Public Services
Property Owner: Diamond Cove Homeowner's Association
Consultant: Owens McCullough, Sebago Technics

II. PUBLIC COMMENT

Notices were sent to 97 abutters, neighbors and interested parties for the Planning Board hearing, in accordance with the requirements specified in the ordinance for Conditional Rezoning, and will be similarly sent for the City Council's public hearing at the second reading. This includes notices in the Portland Press Herald, on the City's web page and posted in the City Clerk's office.



There were no spoken public comments at the Planning Board hearing; three written public comments were received from island residents (PC1, PC2, and PC3 attached) and included in the Planning Board report. These raise concerns regarding the old growth trees and other impacts from the transfer station use. Comments also noted concerns over the previous parking of city vehicles. Some of these impacts are limited by the lease (Attachment E) and would be the focus of the future Level II Site Plan Review and are discussed below. The proposal does not require a formal Neighborhood Meeting.

III. PROJECT DATA (Transfer Station site)

Existing Zoning:	1985 CZA (IR-3 Island Residential Zone)
Parcel Size:	55,050 sq ft (1.25 acres) leased area
Proposed disturbed area:	28,156 sq ft (of which 8924 sq ft existing)
Area of designated open space to be removed from the 1985 designation:	39,565 sq ft (.9 acre)

IV. BACKGROUND

The City of Portland does not have a formal solid waste facility on Great Diamond Island and waste management on the island now consists of a solid waste truck parked on property on the island and frequently transported off the island. The transfer station is proposed to provide a more efficient and hygienic handling of solid waste on the island. The site was chosen to meet a number of criteria (proximity to the barge landing; access for residents; least disturbance of land) and was agreed with the landowner as the best site for this use.

The proposed transfer station is on 1.25 acres of land owned by the Diamond Cove Homeowners Association (DCHA). The City and DCHA have negotiated and agreed upon the attached lease (Attachment B), which was approved by the City Council. The lease (in para. 1B, page 1 of the Lease) anticipated the need to amend the 1985 CZA but this was seen as a minor amendment because this part of the open space was already disturbed near the former "laundry facility" and DCHA septic system.

The proposed CZA amendment addresses:

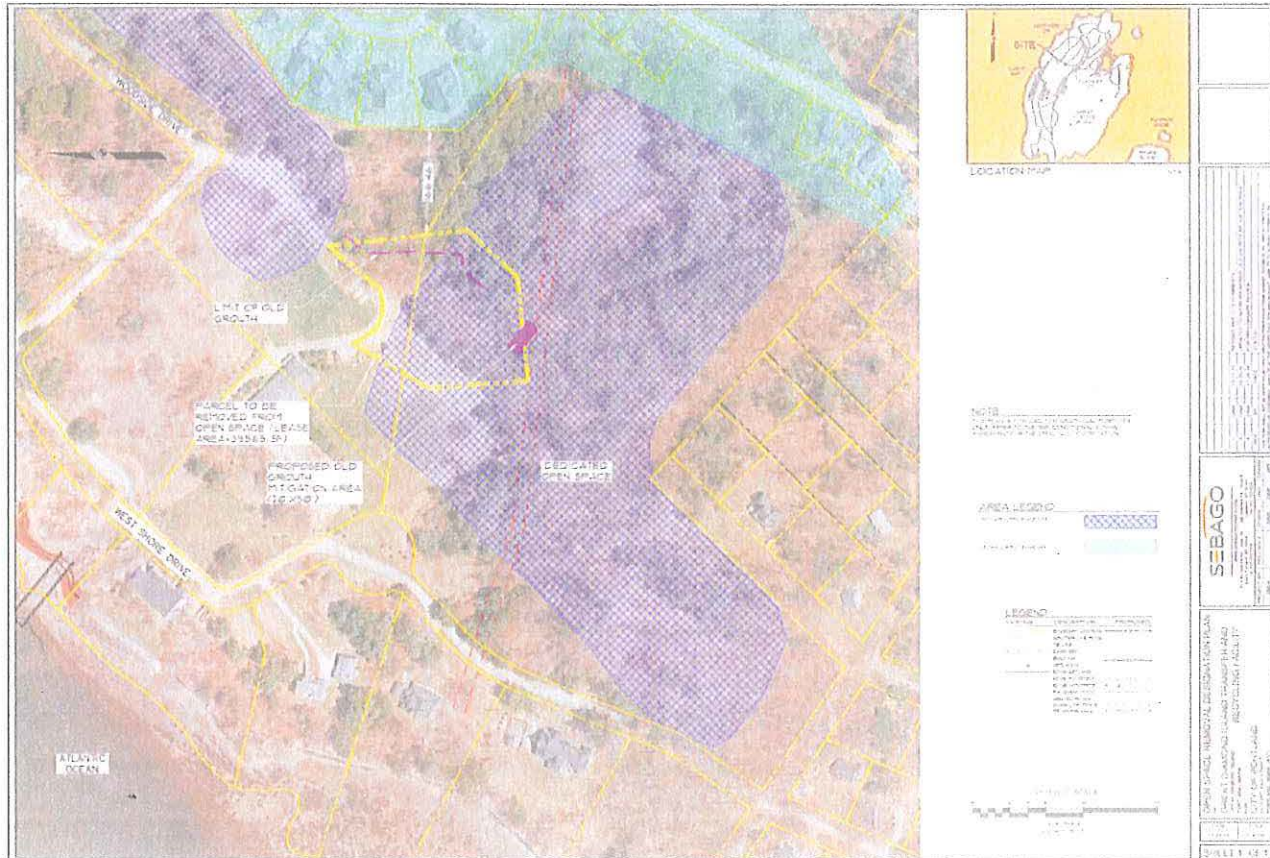
- The impact on the designated open space;
- The exception to the original text that limits construction or development;
- Documentation of the area removed from open space designation.

As background staff requested the context plan shown below (also in Plan P1). On the context plans the information that is most relevant to consideration of the proposed amendment to the CZA is:

- The yellow outline: this area is proposed to be leased from the DCHA and developed for the Transfer Station. It defines the area to be removed from the open space designation;
- The purple hatched area: this is approximately the "designated open space" as based on the 1985 diagrammatic plan above.

Other information is included in the context plan and will inform the detailed Level II Site Plan review; such as the Historic District boundary and old tree growth.

Context plan (not for inclusion in the amendment):



V. SOLID WASTE TRANSFER STATION DEVELOPMENT

The applicant submitted a proposed Site Plan (below and as Plan P2) which illustrates the scale of the work to create storage bunkers and road access. The leased site is larger than the area of disturbance to ensure scope to buffer the development, as explained in the letter from Owens McCullough, Sebago Technics and City's representative, in Attachment E. The details will be the subject of a separate Level II Site Plan review that will also assess other elements of the proposal such as stormwater treatment.

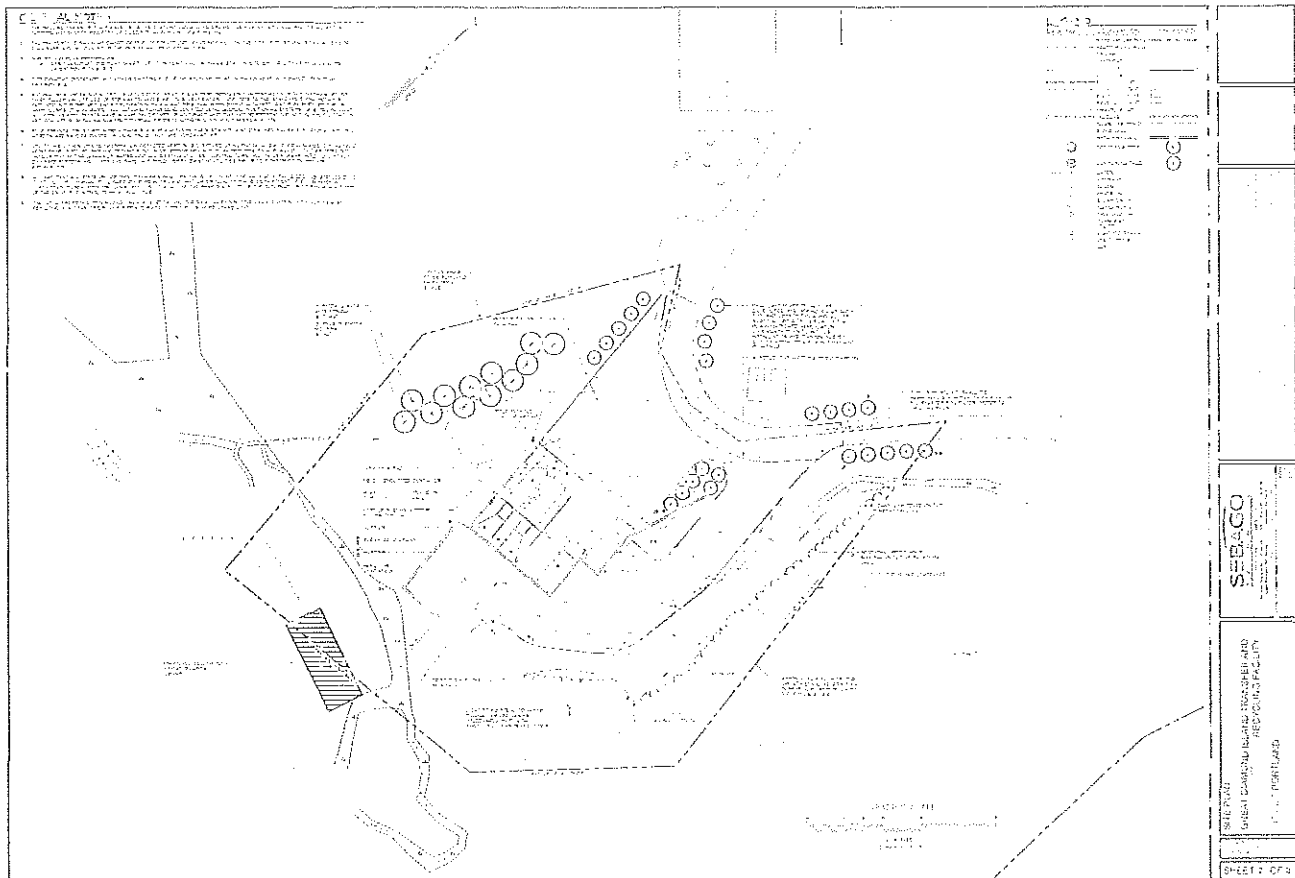
One of the impacts of the proposal is on the old growth trees in the vicinity. The applicant submitted a Licensed Forester's Report which assessed the potential impact on old growth trees (Attachment C). Although not technically an issue in relation to zoning, it should be noted that the Forester concluded that: "...less than 500 square feet within the old growth stand will need to be disturbed. The effect on the stand will not be noticeable. I suggest as a mitigation that a buffer area to the west be expanded by a similar area". The site plan includes a mitigation area of 1000 square feet (rectangle at left of plan).

The site plan also notes that a detailed landscape plan will be prepared and implemented to screen the transfer site from the road (screening from other directions is also included).

The public comments raised questions about the operation of the transfer station and associated impacts. Although these would be reviewed as part of the Level II Site Plan review, the land owner and applicant have addressed these questions in Attachments D and E. The letters cover:

- Background on the leasing of the DCHA land from Matt Hoffner, President of the DCHA (Attachment D);
- Confirmation and additional detail regarding the impacts on the old growth trees -- from Owens McCullough, Sebago Technics and City representative (Attachment E);
- Clarification as to the reasons for the size and location of the site (Attachment E);
- Confirmation that in addition to the City's Site Plan review (not yet completed), the site specific operational issues such as noise and smells are also being reviewed by the MDEP (Attachment E);
- Confirmation that the facility will not be open to the general public and that truck trips, parking and access are limited by provisions in the lease (Attachment E).

Site Plan (as referenced in the proposed amendment):



VI. LEGAL AUTHORITY FOR AMENDING THE 1985 CONDITIONAL ZONE AGREEMENT

Consideration of the request for an amendment to the 1985 CZA is guided by the same State Statutes that apply to any conditional rezoning application:

30-A M.R.S.A. section 4352(8): "A municipal zoning ordinance may provide for any form of zoning consistent with this chapter, subject to the following provisions . . .

A zoning ordinance may include provisions for conditional or contract zoning. All rezoning under this subsection must:

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

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

Sec. 14-60. Authority and purpose.

Pursuant to 30-A M.R.S.A. Section 4503(9), conditional or contract zoning is hereby authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the city council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions in order to ensure that the rezoning is consistent with the city's comprehensive plan. Conditional or contract zoning shall be limited to where a rezoning is requested by the owner of the property to be rezoned. Nothing in this division shall authorize either an agreement to change or retain a zone or a rezoning which is inconsistent with the city's comprehensive plan.

Sec. 14-62. Conditions and restrictions.

Conditions and restrictions imposed under the authority of this division shall relate only to the physical development and operation of the property and may include, by way of example:

- (a) Limitations on the number and types of uses permitted;*
- (b) Restrictions on the scale and density of development;*
- (c) Specifications for the design and layout of buildings and other improvements;*
- (d) Schedules for commencement and completion of construction;*
- (e) Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;*
- (f) Preservation of open space and buffers, and protection of natural areas and historic sites;*
- (g) Contributions toward the provision of municipal services required by the development; and*
- (h) Provisions for enforcement and remedies for breach of any condition or restriction.*

VII. PROPOSED AMENDMENT TO THE CONDITIONAL REZONING AGREEMENT

The 1985 CZA has been amended on three earlier occasions: 2004 to allow electric golf carts subject to limitations; and in 2008 and 2012 to place supplemental conditions and restrictions on the "hospital" and "Double Barracks" buildings. The applicant and City staff, with input from the landowners DCHA, have worked together to develop the following fourth amendment to the 1985 CZA (text and attachments are in Attachment F):

**(FOURTH) AMENDMENT TO CONDITIONAL ZONE AGREEMENT
REFERENCED IN ORDER 42-84/85
RE: CONTRACT FOR REZONING FOR PROPERTY
IN THE VICINITY OF
DIAMOND COVE/GREAT DIAMOND ISLAND**

WHEREAS, on July 15, 1985, the Portland City Council approved a Conditional Rezoning of certain property located on Great Diamond Island, formerly known as Fort McKinley and referred to as the "Premises" in said Conditional Rezoning; and

WHEREAS, the Conditional Rezoning has since been amended pursuant to amendments dated August 16, 2004, September 15, 2008, and February 22, 2012 (hereinafter, as amended, the "CZA"); and

WHEREAS, on April 17, 2014, the City of Portland entered into a Lease Agreement (later amended on September 30, 2014) with the Diamond Cove Homeowners Association pursuant to which the City has agreed to lease space on the Premises and install a solid waste transfer and recycling station in order to more efficiently handle solid waste management on both Great Diamond Island and Little Diamond Island (hereinafter, the "Lease Agreement"); and

WHEREAS, due to constraints the Premises, the only appropriate location for the transfer station is within a portion of the Premises located as shown on Attachment A [*Note: this is the diagrammatic plan with a star indicating the location of the transfer station*] and previously designated as "Dedicated Open Space" which, under the CZA may not be developed;

WHEREAS, pursuant to the Lease Agreement, on _____, the City of Portland's Director of Public Services filed an application to amend the CZA and to modify the boundary of the Dedicated Open Space in order to allow the construction, maintenance and operation of the transfer station;

WHEREAS, on _____, the Portland Planning Board recommended the approval of the amendment to the CZA; and

WHEREAS, the City council hereby finds and declares that said amendments to the Conditional Rezoning are pursuant to and consistent with the City's Comprehensive Plan as well as with existing and permitted uses in the CZA;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Portland, Maine, in the Council assembled as follows:

Paragraph 1 of the CZA in Order 42-84/85, as further amended in Orders 33-04/05, 55-08/09, and 114-11/12, is amended as follows:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, ~~and the construction of minor additions and improvements thereto, and the construction of a solid waste transfer and recycling station in a form~~ substantially similar to that depicted in the plan attached hereto as Attachment B [Note: this is the site plan as shown above and in Plan P2], there shall be no construction or development of any new principal building or structure on the Premises. Except as otherwise specified herein, all portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

and, BE IT FURTHER ORDAINED that:

The area described in Attachment C [Note: this is the metes and bounds description as excerpted from the Lease in Attachment B], being the premises leased under the Lease Agreement, be removed from the Dedicated Open Space as originally identified in the CZA.

VIII. PLANNING BOARD AND STAFF REVIEW OF PROPOSED AMENDMENTS TO THE 1985 CZA

The "Whereas" statements in the amendment document clarify the reasons for the amendment.

The key CZA amendment issues are:

- The impact on the designated open space: The area to be removed from the 1985 designation is 39,565 sq ft (less than an acre) and includes land that is partially disturbed at present. The 1985 CZA does not mention the old tree growth areas, so the CZA amendment is not required to address this question although it would be an issue for the Level II Site Plan review (and a preliminary review shows minimal impact on old growth). The City Arborist, Jeff Tarling, is familiar with the area and has confirmed there is no adverse impact (Att. 2);
- The exception to the original text that limits construction or development: The first section of amended text adds the transfer station area to the existing exceptions and limits its scale and location by referring to the Site Plan. The use is consistent with the 1985 CZA as it envisaged a possible municipally-operated island solid waste disposal facility being created (para 6 on page 3 of Att. 1).
- Documentation of the area removed from open space designation: The 1985 CZA plan showing the designated open space is diagrammatic and it would be difficult to show a precise revised boundary line except by reference to the area leased for the transfer station. Therefore the metes and bounds of that area are included in the amendment to clarify where the location of the open space designation is revised in the vicinity of the transfer station.

IX. COMPREHENSIVE PLAN

The City's Comprehensive plan notes that its islands "pose a completely unique situation for land use planning and zoning. Unlike most other densely inhabited islands on the Maine coast, which are separate municipalities, the

Portland islands are similar to the neighborhoods of a large, urban mainland municipality and pose strong contrasts of urban vs. rural and seasonal vs. year-round living. Similarly, unlike other areas of seasonal home concentrations in the rural Lakes regions of the State, the islands are subject to spillover growth pressures from the 'city,' and invite comparison to the mainland's relatively high level of public services in terms of streets, sewage, schools, waste collections, fire protection, police and libraries."

The Comprehensive Plan further provides: "The islands are different from the mainland in terms of the natural features, their resource value, the public services available (or possible), and the people who reside and work there. The City's land use policies and regulations should reflect this essential difference." Volume I, City of Portland Comprehensive Plan § V p. 25.

In recognizing the unique qualities and characteristics of Portland's islands, the Comprehensive Plan advises that the City should adopt a policy for future development that minimizes the dependence on and intrusion of private automobiles on the islands." *Id.* at p. 26. It further seeks to "encourage development of a type, scale, diversity and density appropriate to the circumstances, environment, infrastructure, and service capabilities of the islands."

According to the applicant and the DCHA, waste management on the island, which consists of weekly hauling of trash from a solid waste truck collected from the island and parked on property on the Great Diamond Island side is not sufficiently or effectively serving the needs of the island's residents. Due to the gradually increasing population and the waste management requirements attendant to that growth, the City and the DCHA – in cooperation with other residents on the island – have determined that a solid waste transfer station capable of handling the island's waste is necessary. The Planning Board found that the Comprehensive Plan contemplates the need to provide sufficient public services to the City's islands and that the introduction of the proposed transfer station is consistent with those objectives. Further, the existing CZA contemplates a municipally-operated solid waste facility on the site such that the proposal also appears to be consistent with the zoning expressly contemplated and authorized by that document.

X. PLANNING BOARD RECOMMENDATION

The Planning Board held a public hearing on March 24, 2015 and voted 4-0 (O'Brien abstained; Eaton and Morrisette absent) in favor of the following motion:

That the proposed fourth Amendment to the 1985 IR-3 Conditional Zone Agreement for Fort McKinley on Great Diamond Island is consistent with the Comprehensive Plan of the City of Portland and with the existing and permitted uses in the Conditional Zone Agreement. The Planning Board therefore recommends to the City Council approval of the proposed amendment to the 1985 Conditional Zone Agreement as set out in the Report.

XI. ATTACHMENTS

PB Hearing Report attachments

1. 1985 Approved Conditional Zone Agreement (CZA)
2. City Arborist comments 3.19.2015

Public comments

- PC1. Sandy Fitch (2)
- PC2. Bonnie Dietz (2)
- PC3. Alexandra Neal

Applicants submittal

- A. Applicants letter and application
- B. Transfer Station Lease (from DCHA to City)
- C. Foresters Report (Rene Noel)
- D. DCHA letter 3.16.2015 with further information
- E. Sebago letter 3.18.2015 with further information
- F. Proposed Amendment to the Conditional Zone Agreement with Attachments

Plans

- P1 Background Context Plan
- P2 Proposed Site Plan

City of Portland, Maine

Att. 1

IN THE CITY COUNCIL

048089

AMENDMENT TO PORTLAND CITY CODE

SECTION 14-49 (ZONING MAP)

RE: CONDITIONAL REZONING OF FT. MCKINLEY

WHEREAS, Diamond Cove Associates is the record owner of certain land, with the buildings thereon, situated on the northerly portion of Great Diamond Island and commonly known as the Ft. McKinley property; and

WHEREAS, in the process of a comprehensive land use study and rezoning of the Portland islands by the City, Diamond Cove Associates requested that a portion of said property be rezoned from the R-2 Residential Zone to the IR-3 Island Residential Zone; and

WHEREAS, the Planning Board, pursuant to 30 M.R.S.A. Section 4962(1)(I), and after notice and hearing and due deliberation thereon, recommended rezoning a portion of the property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the City Council hereby finds and declares that said conditional rezoning would be pursuant to and consistent with the City's comprehensive plan and would satisfy the guidelines set forth in Section 14-145.13 of the Portland City Code, all for the reasons contained in the Planning Board's report accompanying this Amendment;

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

THAT, the Zoning Map of the City of Portland, Maine (1958), as amended, on file in the Office of the Director of Planning and Urban Development (incorporated into this code by Section 14-49) be further amended as shown on the attached fragmentary map entitled "Fort McKinley Property Zoning Map (Great Diamond Island)", subject, however, to the Conditions and Restrictions attached hereto.

CONDITIONS AND RESTRICTIONS

The following conditions and restrictions are imposed by the City of Portland (the City) on Diamond Cove Associates (the Owner) as conditions of the rezoning of the property described on the map attached hereto (the Premises) from the R-2 Residential Zone to the IR-3 Island Residential Zone:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, and the construction of minor additions and improvements thereto, there shall be no construction or development of any new principal building or structure on the Premises. All portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

2. Completion of development. The development of the Premises as aforesaid shall be substantially completed within three (3) years after the issuance of all licenses, permits and approvals required and requiring final action by any administrative agency, board or commission, including but not limited to subdivision, site plan and site location of development approvals, but not including building, plumbing, electrical or similar permits, which licenses, permits and approvals shall hereafter be diligently pursued; provided, however, that the time for performance hereunder shall be extended for the time during which performance is delayed by reasons wholly beyond the Owner's control, including but not limited to strikes, lock-outs, labor disputes, inability to procure materials, failure of power, riots, war, insurrection, administrative or judicial delay and similar reasons, but not including financial hardship or business conditions; provided, further, that the Planning Board may, after notice and hearing, extend the time for performance hereunder for up to one (1) additional year if it finds that substantial progress has been made toward completion, and that there is a reasonable likelihood of substantial completion within the time as extended.

3. Maintenance of streets, walks and landings. All streets and ways, walks and pedestrian rights of way, and landings, floats and docks on the Premises, including but not limited to those to which the public has a right of access, shall be kept reasonably safe and passable at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that the City may, from time to time, designate such areas as need not be kept clear of ice and snow when or where, in its opinion, the public health, safety and welfare do not require it; provided, further, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including

but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

4. Maintenance of utilities. All utilities and related infrastructure and improvements on the Premises, including but not limited to water, power, communications, sewers and drains, surface drainage ways, street lights and hydrants, shall be kept fully operational and in good repair at all times, including but not limited to the off-season or winter months, and at the Owner's expense; provided, however, that in the event that the Owner fails to perform any obligation hereunder, the City may, after giving actual notice to the Owner and a reasonable time to perform, enter upon the Premises, or any portion thereof, and take such reasonable steps, including but not limited to the exercise of self-help, as to it may seem necessary or appropriate to perform the same, the cost of which shall be reimbursed in full by the Owner upon demand.

5. Disposal of sanitary waste. All sanitary waste generated on the Premises shall be collected and disposed of on the Premises by means of a community sewer and secondary treatment system which complies with all applicable federal, state and local regulations, and at the Owner's expense.

6. Disposal of solid waste. All solid waste generated on the Premises shall be collected and disposed of on the mainland or if, in the City's opinion, it would not create an unreasonable burden thereon, at a municipally-operated island solid waste disposal facility, in a manner which meets all applicable federal, state and local requirements, and at the Owner's expense.

7. Fire protection, public safety and emergency services. Before occupancy of the Premises, or any portion thereof, the Owner shall, at its own expense, provide to the City:

(a) a fully equipped "Quint" truck, so-called, or its equivalent, for fire protection purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City under a written net lease-purchase agreement in a form mutually satisfactory to the parties and upon commercially reasonable terms, at the end of which lease term title to said vehicle shall be transferred to the City free and clear of all liens and encumbrances, and at no additional charge;

(b) a fully equipped multi-purpose truck van, for public safety and emergency purposes, which vehicle, whether new or used, shall conform to City specifications and be leased to the City for its useful life under a written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar (\$1.00); and

- (c) a building or buildings, or portions thereof, suitably located on the Premises, for permanent maintenance and storage of said vehicles and related apparatus and equipment, and housing of at least two (2) City personnel associated therewith, which facility shall conform to City specifications and be leased to the City under a ninety-nine (99) year written net lease agreement in a form mutually satisfactory to the parties and providing for, among other things, annual lease payments in the amount of one dollar (\$1.00), and delivery of possession on a "turn-key" basis.

Upon the City's occupancy of said facility, the Owner shall, at its own expense, provide at all times thereafter a number, not to exceed two (2), of qualified private personnel equal to the number of City personnel then assigned thereto, which private personnel shall be on the Premises and available at all times on an on-call basis to assist said City personnel in the rendering of fire protection, public safety and emergency services on or to the Premises; provided, however, that nothing herein shall constitute any representation or commitment by the City to provide any particular level of staffing or services. Said private personnel shall be trained and equipped for such purposes by the City and at its expense, and shall be under the direction and supervision of authorized City personnel at all times while so engaged; provided, however, that in no case shall said private personnel be deemed agents or employees of the City for any purpose, including but not limited to workers' compensation, unemployment compensation, tort claims liability and collective bargaining; provided, further, that notwithstanding the foregoing, in the event that the City is held liable for any claim arising out of or relating to any actions of said private personnel, which actions were not pursuant to and consistent with the directions of authorized City personnel, the Owner shall indemnify and save forever harmless the City from and against any and all such claims.

8. Water transportation service. The Owner shall use its best efforts to secure from the Casco Bay Island Transit District year-round common carrier water transportation service to, from and between the Portland waterfront and Diamond Cove via a suitable docking facility on the Premises and on a schedule to be established by the carrier based upon passenger demand; provided, however, that in the event that such service is or at any time becomes unavailable, the Owner shall, at its own expense, provide an equivalent alternative to such service, subject only to the approval thereof by the Public Utilities Commission, or such other regulatory authority having jurisdiction thereof.

9. Restrictions on motor vehicles. Except for vehicles used primarily for construction, maintenance, service and the common transportation of goods and passengers, and fire protection, public safety and emergency vehicles, no motor vehicles, as defined in 29 M.R.S.A. Section 1(7), but including snowmobiles, shall be operated or stored, temporarily or otherwise, on the Premises.

10. Applicability of other laws. The development, use and occupancy of the Premises shall be subject to all other applicable laws, ordinances, regulations and requirements of the City as they may from time to time exist, and neither these conditions or restrictions nor the performance of any obligation hereunder shall constitute compliance therewith or prevent the enforcement thereof, any violation of which shall also constitute a breach of these conditions and restrictions, any breach of which shall also constitute a violation of Chapter 14, Article III (Zoning) of the Portland City Code.

11. Successors bound. These conditions and restrictions shall bind the Owner, its successors and assigns, of or to the Premises, or any portion thereof or any interest therein, including but not limited to any security interest, and any person in possession or occupancy of the Premises, or any portion thereof, and shall inure to the benefit of and be enforceable by the City. The Owner shall, at its own expense, record a copy of these conditions and restrictions in the Cumberland County Registry of Deeds, and shall, by deed, covenant, declaration of condominium or other recorded or recordable instruments, as appropriate, ensure that these conditions and restrictions are enforceable by the City against all such successors, assigns and persons. Nothing herein shall be deemed to limit the Owner's right of alienability of the Premises, or any portion thereof, subject to these conditions and restrictions, which conditions and restrictions shall run with the land and be binding upon the Owner, its successors and assigns, as their interests may appear.

12. No reliance or estoppel. Nothing in these conditions or restrictions shall constitute any representation or commitment by the City to retain the zoning classification of the Premises, or shall entitle the Owner to rely thereon for any purpose, or shall estop the City from any future rezoning or exercise of other authority with respect to the Premises. Nothing herein shall be deemed to preclude the Owner from petitioning the City for any future rezoning of the Premises or other property in the vicinity thereof; provided, however, that nothing herein shall constitute any representation or commitment by the City to grant such a petition or otherwise act thereon.

13. Breach. In case of any breach of these conditions and restrictions, and except as otherwise hereinbefore provided, the City shall, after giving written notice to the Owner and a reasonable time to cure not to exceed six (6) months, refer the same to the Planning Board, which shall, after notice and hearing, make a recommendation to the City Council whether to rezone the Premises, or any portion thereof, which recommendation shall be advisory only.

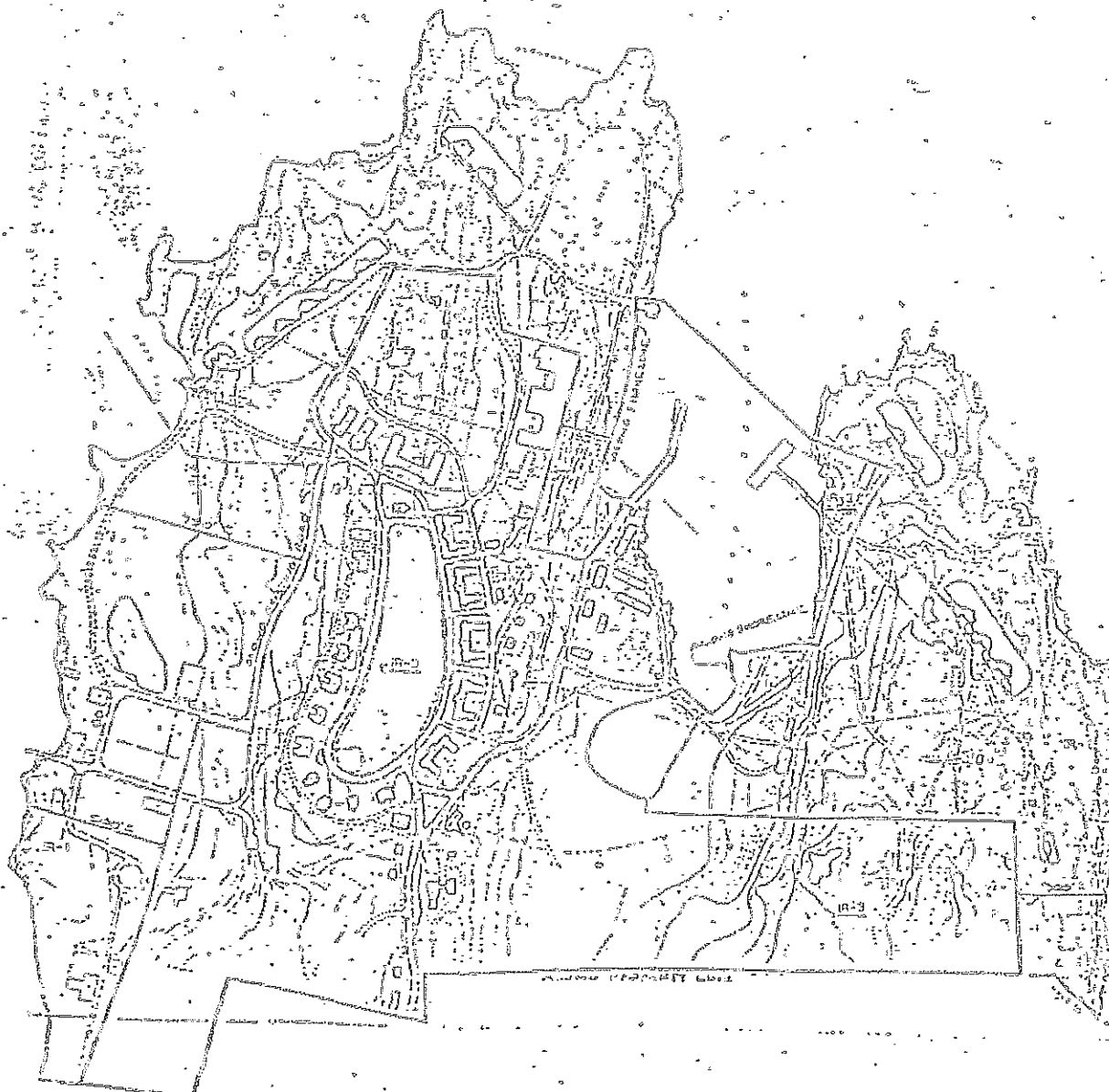
14. Declaration of invalidity. In the event that these conditions and restrictions, or any portion thereof, are declared invalid for any reason by a court of competent jurisdiction, the City shall invoke the same procedure as hereinbefore provided for breach of these conditions and restrictions.

7/15/85

15. Remedies not impaired. No failure or delay by the City to enforce any of these conditions and restrictions shall impair any remedy available for breach hereof, or constitute a waiver or acquiescence in any breach hereof, the remedies for which shall be cumulative.

7/15/85

FORT MCKINLEY PROPERTY ZONING MAP
(GREAT DIAMOND ISLAND)



NOTE: SHORELAND ZONE LINE EXTENDS INLAND A DISTANCE
OF 250 FEET FROM THE NORMAL HIGH WATER MARK
OF THE BAYS, COVES, SOUNDS, INLETS AND OPEN
WATERS OF CASCO BAY.

7/15/85

Diamond Cove

GREAT DIAMOND ISLAND

PORTLAND, ME

DEVELOPER: DICTAR ASSOCIATES

PORTLAND, ME

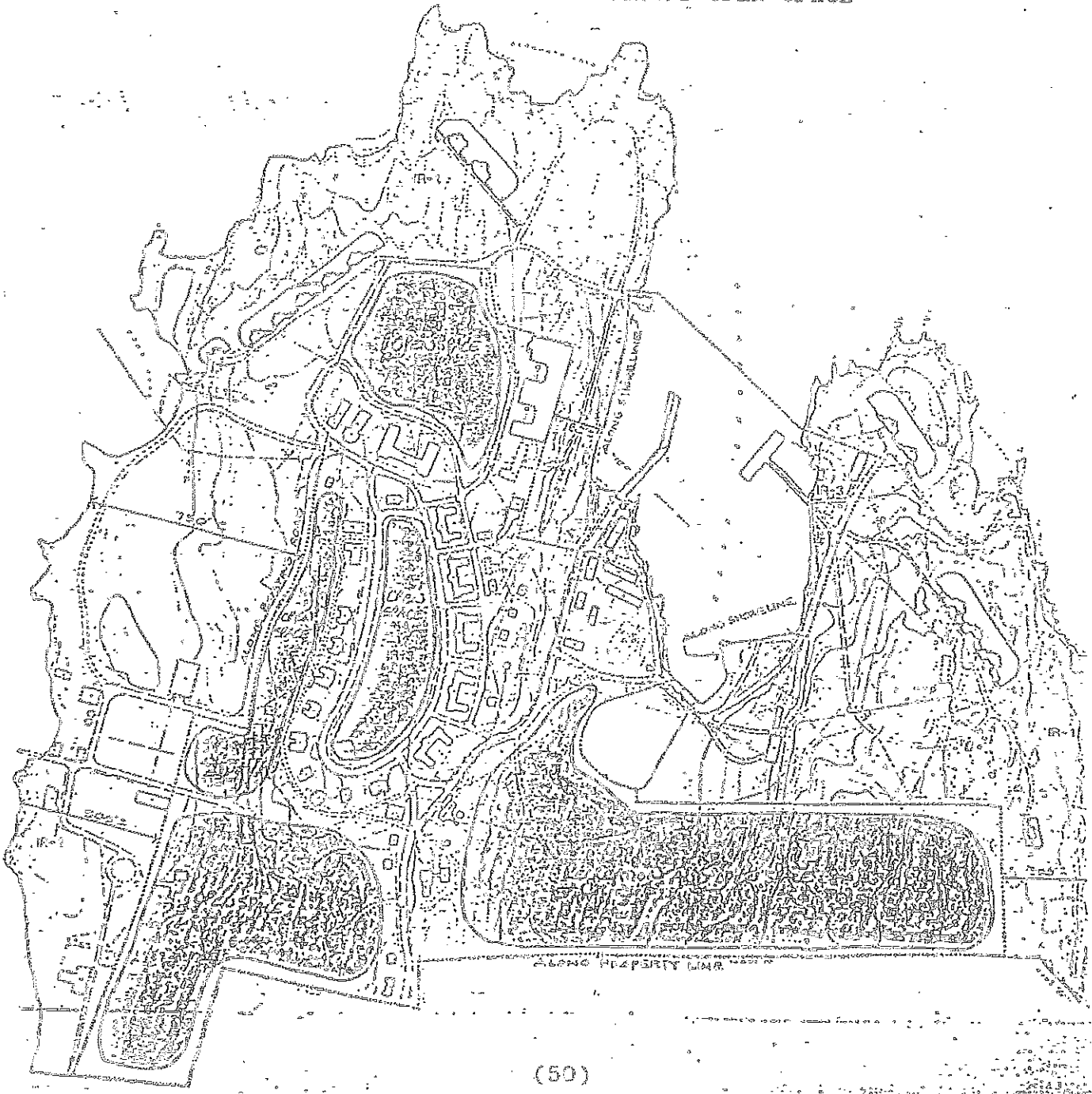


DICTAR ASSOCIATES
INCORPORATED
1980

Architects, Planners, Engineers and Surveyors



DEDICATED OPEN SPACE



AMENDMENT TO PORTLAND CITY
CODE SECTION 14-49 (ZONING
MAP) SECTION 14-49 (ZONING
MAP) RE: CONDITIONAL
REZONING OF FT. MCINLEY

IN THE CITY COUNCIL

JUNE 12 1985

Given a first reading. Public
hearing held.

JUNE 24 - Public hearing held.
Councilor Smith moved, seconded
MacWilliams to table to July 15th
afternoon City Council Meeting,
passed 7 yeas.

JULY 15 - Removed from the table.
Motion to replace with substitute
amendment, passed, 8 Yeas, and
passed, as amended, 8 Yeas.

Item #98 dated July 15, 1985 is relevant to
this item. Titled Access For Island Sub-
divisions, it refers to this item.

Jane Durgin
Attest: *Jane Durgin*
City Clerk

STATE OF MAINE
CUMBERLAND, ss.

JANUARY 27, 1986

Personally appeared the above-named Jane Durgin and
acknowledged the foregoing instrument to be her free
act and deed in her said capacity.

EMILIE CURRIAN

RECEIVED

RECEIVED FEBRUARY 11 1986

1985 SEP 28 PM 3:32

CUMBERLAND COUNTY

[Signature]

From: Jeff Tarling
To: Jean Fraser
Date: 3/19/2015 11:00 AM
Subject: GDI Zone Change

Hi Jean -

I am very familiar with the open space area on Great Diamond Island where the transfer station is proposed. The amendment change of less than an acre does not appear to adversely impact the nearby old-growth forest.

Jeff Tarling
City Arborist

From: "Sandy Fitch" <sandy@diamondcoveproperties.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 3/18/2015 3:29 PM
Subject: Re trash compactor at Diamond Cove
Attachments: photo.JPG; phototrucks.JPG

Hello Ms Fraser

I have read the information you so kindly forwarded to me, regarding the city trash compactor area at Diamond Cove. The guidelines are very reassuring and if all is maintained and managed as outlined in the documents everything will be well (or as well as it can be, given it is an area where trucks will be coming and going and trash will be smashed and stored). My concern is though, that when the city sends vehicles out to the island to perform a function, they often grow roots and remain here forever.

I have attached two photographs taken this afternoon, showing the city parking area on Diamond Avenue. What is going to become of the vehicles that are currently stored at this area, outside the Diamond Cove "upper gate"? Will this area remain as it is or will the vehicles and equipment be moved to the pad at the new compactor area? When this city parking area was created, screening was supposed to have been planted to block the view of machines from the passersby on Diamond Avenue, but that was never done. Can we hope for better here? Who will enforce the proper maintenance of this area?

I hope that these and other homeowner's questions can be addressed at the meeting on the 24th.

Best regards,
Sandy Fitch

The message is ready to be sent with the following file or link attachments:
photo.JPG
phototrucks.JPG

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Photos from S Fitch 3.18.2015 with e-mail



>>> Sandy Fitch <sandy@diamondcoveproperties.com> 3/14/2015 1:39 PM >>>
Dear Ms Fraser

Thank you so much for forwarding all the information to me. I really appreciate the time you have taken to address my question. I do not object to my email being included as public comment.

It will take a while to go through all the attachments but I have perused some and at this point my immediate concern is about the accumulation of old city vehicles that will be parked in this area (one need only look at the city parking area on Diamond Avenue), and the enforcement for requirement for screening to be planted as a visual buffer around this facility. I do plan to attend the meeting so perhaps I will meet you there?

Regards

Sandy Fitch
West Shore Drive
Diamond Cove
Sent from my iPhone
Sandy Fitch

From: Sandy Fitch (mailto:sandy@diamondcoveproperties.com)
To: jf@portlandme.gov
Cc: Bonnie Dietz (mailto:bonniedietz298@msn.com)
Sent: Monday, March 02, 2015 12:41 PM
Subject: rezoning request Great Diamond Island involving old growth forest

Dear Ms. Fraser:

I received notice of a city request for a zone change for a 1.25 acre "transfer station" in Diamond Cove, impacting 500 square feet of old growth forest. Having been involved with the early development and sale of properties here at Diamond Cove, and serving on our Design Review Board for 10 years, I am very aware of the strict conditions that apply to old growth. Does this proposed use change require the destruction of old growth or is this just part of the area included within the boundaries of the transfer station? If the old growth is going to be disturbed in any way, is the DEP aware of this? I just can't imagine that it is okay to destroy something so highly protected **just to** used for a city garbage facility.

I would greatly appreciate if you could please explain what is actually to be done with this 500 square feet of wonderful old growth woodland.

Sandra Fitch
Diamond Cove
Great Diamond Island

From: Bonnie Dietz <bonniedietz298@msn.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 3/18/2015 12:54 PM
Subject: RE: amendment to the 1985 Conditional Agreement...Great Diamond Island

Jean,

Thank you for sending along all the additional information.

Yes you may include my March 3, 2015 email in the Report as "public comment".

If it is not too late I would like to add one more question: Will the lights indicated on the site plan be motion sensitive or will they be on during all hours of darkness?

I would also like to mention with regards to the DCHA Board letter that there are many homeowners who do choose to read all the minutes and newsletters but still did not have a clear picture of the details of the transfer station. In many cases minutes have been delayed by months so any questions or comments would only be after the fact. I do not believe a copy of the lease and some of the other documents were shared with homeowners. While our board of directors acts on our behalf they do not always keep us informed of the details so we do have questions. Matt Hoffner has offered to answer questions but he is also on vacation out of state and I would not want to take vacation time from anyone if it can be avoided.

Thanks for keeping me informed,

Bonnie

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Tuesday, March 17, 2015 3:05 PM
To: Bonnie Dietz
Subject: RE: amendment to the 1985 Conditional Agreement...Great Diamond Island

Bonnie

Please find attached a letter from the DCHA that will be included in the Planning Board Report and may answer some of your questions.

I am also writing to confirm that your e-mail of March 3, 2015 will also be included in the Report as "public comment" and I think these questions are helpful and the I understand the applicant is preparing answers but I have not yet received them in written form.

thank you

Jean

Jean Fraser, Planner

City of Portland

874 8728

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested. --

From: Bonnie Dietz <bonniedietz298@msn.com>
To: <jf@portlandmaine.gov>
Date: 3/3/2015 5:22 PM
Subject: amendment to the 1985 Conditional Agreement...Great Diamond Island

Dear Jean,

My neighbor mentioned receiving the notice regarding the amendment to the 1985 Conditional Rezoning Agreement relating to Fort McKinley on Great Diamond Island requested by Portland's Director of Public Services. I did not receive a notice in the mail. Although my property is not within the 500 feet area, as a member of the Diamond Cove Homeowner's Association I am one of the many owners of the common properties which includes the Old Growth area and Open Space areas. In that regard I hope you will be able to respond to my questions.

1. Will the Old Growth area be altered or be part of a buffer?
Historically the Old Growth areas were not to be touched (with the exception of bittersweet removal)
2. Why are 1.25 acres needed? It seems like a really large area for a compactor and recycle station for relatively few people.
3. Is this the first time that the city has proposed leasing private property in a private gated community for a transfer station?
4. Have any enforceable provisions been made to buffer the noise, smells and views of the transfer station?
5. Has any estimate been done to calculate the number of garbage truck trips that will visit the transfer station each week?
6. Will there be a direct access road to the transfer station from the public (Great Diamond) side of the island so West Shore Drive at Diamond Cove is not impacted?

I look forward to your response,

Bonnie Dietz

20 Diamond Cove

Great Diamond Island, ME 04109

From: Alex Neal <alexkneal@gmail.com>
To: "JF@portlandmaine.gov" <JF@portlandmaine.gov>
CC: Sandy Fitch <sandy@diamondcoveproperties.com>, Bill Conlon <wconlon@ford...
Date: 3/18/2015 6:28 PM
Subject: Diamond Cove transfer station

My husband and I live at 30 W. Shore Drive on Diamond Cove and we also want to voice our concern over the attention paid to the proposed transfer site. We have been reassured that city vehicles won't have extended stays there as happened previously at the laundry site. We also have been reassured that there will be proper landscape screening and that trash and odor will not become issues.

The west side is a beautiful part of the island with many expensive, well-cared for homes in it. We are counting on the City to keep its word that a potentially positive solution to garbage disposal won't become a negative problem.

Best,
Alexandra Neal



Conditional Rezoning Application

to

City of Portland Planning Board

Solid Waste Transfer & Recycling Station Great Diamond Island, Maine

on behalf of

City of Portland
Department of Public Services
55 Portland Street
Portland, ME 04101

and

Diamond Cove Homeowners Association
8 McKinley Ct.
Great Diamond Island, ME 04109

January 2015

Table of Contents

Exhibit 1 Application Form and Agent Authorization

Exhibit 2 USGS Location Map

Exhibit 3 City Assessor's Map

Exhibit 4 Right, Title or Interest

Exhibit 5 Open Space Designation Removal Plan

Exhibit 1

Application Form and Agent Authorization



Zoning Map/Text Amendment/Contract or Conditional Rezoning Application Portland, Maine

Planning and Urban Development Department
Planning Division

Portland's Planning and Urban Development Department coordinates the review of requests for zoning map amendments, zoning text amendments and contract or conditional re-zoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Zone Change.

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14) which is available on our website:

Land Use Code: <http://me-portland.civicplus.com/DocumentCenter/Home/View/1080>

Design Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2355>

Technical Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2356>

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8719

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

PROJECT NAME: Great Diamond Island Transfer Station

PROPOSED DEVELOPMENT ADDRESS:

Great Diamond Island, Portland, Maine

PROJECT DESCRIPTION:

Amendment to the existing DCHA Conditional Zoning Agreement to remove the area for a solid waste transfer station and recycling facility from the open space designation .

CHART/BLOCK/LOT: 83B-M001

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: City of Portland, Attn: Troy Moon Business Name, if applicable: Address: 55 Portland Street City/State: Portland, ME Zip Code: 04101	Applicant Contact Information Work # (207) 874-8467 Home# N/A Cell # N/A Fax# (207) 874-8816 e-mail: thm@portlandmaine.gov
Owner – (if different from Applicant) N/A Name: Address: City/State: Zip Code:	Owner Contact Information N/A Work # Home# Cell # Fax# e-mail:
Agent/ Representative Sebago Technics, Inc. Name: Attn: Owens McCullough, P.E. Address: 75 John Roberts Road, Suite 1A City/State: South Portland Zip Code: 04106	Agent/Representative Contact Information Work # (207) 200-2073 Cell # N/A e-mail: omccullough@sebagotechnics.com
Billing Information N/A Name: Address: City/State: Zip Code:	Billing Information N/A Work # Cell # Fax# e-mail:

Engineer: *See Agent/Representative Name: Address: City/State : Zip Code:	Engineer Contact Information *See Agent/Representative Work # Cell # Fax# e-mail:
Surveyor Name: City of Portland Address: 55 Portland Street City/State : Portland, ME Zip Code: 04101	Surveyor Contact Information N/A Work # Cell # Fax# e-mail:
Architect N/A Name: Address: City/State : Zip Code:	Architect Contact Information N/A Work # Cell # Fax# e-mail:
Attorney N/A Name: Address: City/State : Zip Code:	Attorney Contact Information N/A 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:

*See attached lease agreement

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:

Existing use is open space and storage area for miscellaneous landscaping materials.

Current Zoning Designation(s): IR-3

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.

City of Portland solid waste transfer station and recycling facility. Proposed work will include
construction of a paved access drive, concrete pads, retaining wall, and two solid waste compactors.

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.

APPLICATION FEES: *To be addressed internally by City of Portland

Check all reviews that apply. (Payment may be made by Credit Card, Cash or Check payable to the City of Portland.)

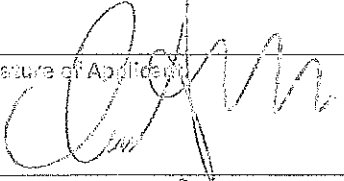
Zoning Map Amendment ___ \$2,000.00 (from ___ zone to ___ zone) Zoning Text Amendment ___ \$2,000.00 (to Section 14-___) Combination Zoning Text Amendment and Zoning Map Amendment ___ \$3,000.00 Conditional or Contract Zone ___ \$3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed 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. Please refer to Division 1.5, Sections 14-60 to 62.)	The City invoices separately for the following: • Notices (\$.75 each) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) • Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.
--	--

APPLICATION SUBMISSION:

1. All plans and written application materials must be submitted electronically on a CD or thumb drive with each plan submitted as separate files, with individual file names which can be found on the Electronic Plan and Document Submittal page of the City's website at <http://me-portland.civicplus.com/754/Electronic-Plan-and-Documents-Submit>
2. The submission shall include the following materials:
 - a. One (1) paper set of the zoning amendment application, concept plan and written narrative.
 - b. Contract and conditional rezoning applications must include 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.

APPLICANT SIGNATURE:

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of Applicant 	Date: Jan. 22, 2015
--	------------------------

agent for city

Portland, Maine



Yes, life's good here

Michael J. Bobinsky
Director of Public Services

September 4, 2014
09405

Maine Department of Environmental Protection
312 Canco Road
Portland, ME 04103

Letter of Agent Authorization - MDEP Permit Applications, Great Diamond Island

Sebago Technics, Inc. has been retained by the City of Portland to assemble permit applications and represent the City during the Maine Department of Environmental Protection permitting process for several related permit applications to include:

1. Permit application for a new solid waste transfer facility;
2. Minor amendment permit application; and
3. Permit-by-Rule application for improvements to an existing marine ramp.

These permit applications are associated with infrastructure improvements on Great Diamond Island. We look forward to working with the Maine Department Environmental on these important community projects. If you have any questions please feel free to contact me.

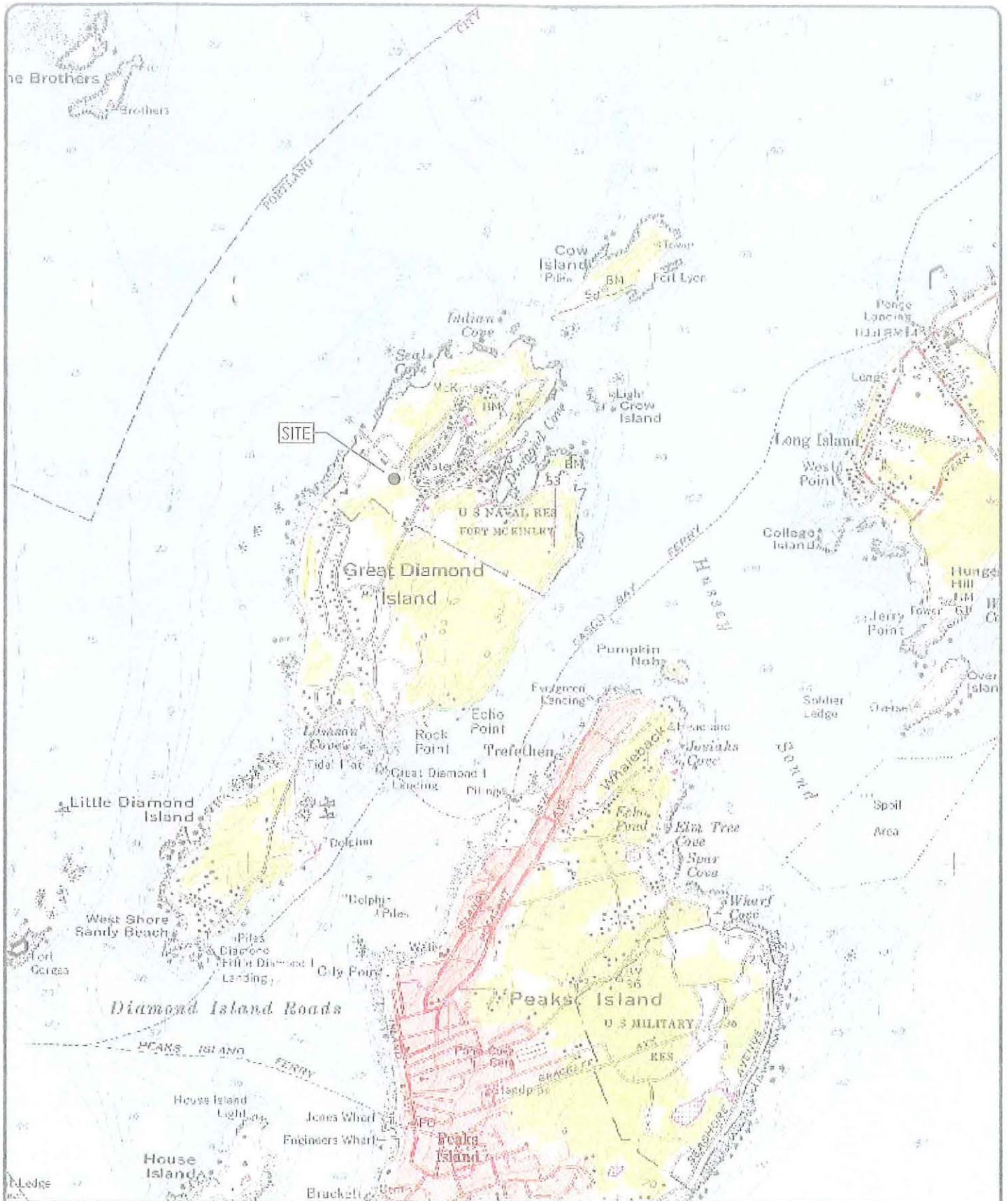
Sincerely,

A handwritten signature in dark ink, appearing to read "Troy Moon", is written over a horizontal line.

City of Portland
Troy Moon
Environmental Programs and Open Space Manager

Exhibit 2

USGS Location Map



SEBAGO
TECHNICS
WWW.SEBAGOTECHNICS.COM

75 John Roberts Rd., Suite 1A South Portland, ME 04106 Tel: 207-203-2100
250 Goddard Rd., Suite 8 Lexington, ME 02426 Tel: 207-783-5526

SITE LOCATION MAP
OF PROPOSED SOLID WASTE TRANSFER STATION

LOCATION:
GREAT DIAMOND ISLAND
PORTLAND, MAINE

FOR:
CITY OF PORTLAND MAINE

SCALE: 1" = 2000'

DATE: 12/18/14

SHEET:
1 OF 1

Exhibit 3

City Assessor's Map



SEBAGO
TECHNICS

LAND SURVEYING - ENGINEERING - TAX MAPS - GIS

WWW.SEBAGOTECHNICS.COM

75 John Roberts Rd. - Suite 1A
South Portland, ME 04106
Tel: 207-200-2100

250 Goddard Rd. - Suite B
Lewiston, ME 04240
Tel: 207-733-8669

TAX MAP SKETCH OF PROPOSED SOLID WASTE TRANSFER STATION

LOCATION:

WEST SHORE DRIVE
GREAT DIAMOND ISLAND

INFORMATION:

IMAGERY SPRING 2009
DATA SOURCE: MAINE GIS

SCALE: 1" = 300'

DATE: 05/30/14

09405

Abutters List

Current Owner/Mailing Address	MAF	LOT
Diamond Cove Homeowners Association C/O Phoenix Management PO Box 759 Saco, ME 04072	N/A	N/A

Exhibit 4

Right, Title or Interest

Exhibit 4

Right, Title or Interest

LEASE AGREEMENT
FOR TRANSFER STATION
BY AND BETWEEN
CITY OF PORTLAND AND
DIAMOND COVE HOMEOWNERS ASSOCIATION

THIS LEASE AGREEMENT (hereinafter this "Agreement") is made as of this 17th
April day of February, 2014, by and between the CITY OF PORTLAND, a municipal corporation
located in Cumberland County, State of Maine (hereinafter the "CITY") and DIAMOND
COVE HOMEOWNERS ASSOCIATION, a Maine not-for-profit corporation doing business
on Great Diamond Island, Maine (hereinafter "LESSOR").

WITNESSETH:

That LESSOR, for and in consideration of the rent hereinafter to be paid by CITY, and
other consideration, and the covenants and agreements hereinafter contained, to be kept and
performed by CITY, does hereby demise, lease and let unto CITY, the property located at or
near the 'laundry building' on Great Diamond Island in Portland, Maine and more particularly
described in Exhibit A (hereinafter the "PREMISES"), to have and to hold unto said CITY on
the following terms and conditions:

1. Term and Renewal; Commencement Date

A. The initial term of this Agreement shall begin on the Commencement Date (as
hereinafter defined), and shall continue until midnight on the last day of the calendar month
containing the twentieth (20th) anniversary of the Commencement Date, unless sooner terminated
by either party as provided herein. This Agreement shall renew automatically for four (4)
additional 20-year terms, unless either party gives the other notice of non-renewal at least 30
days before such end of the 20-year term. The grounds for non-renewal shall be the same as the
grounds for termination, set out in Section 18 of this Agreement; but in addition, however, if the
CITY fails to substantially complete the construction of a transfer station facility on the
PREMISES in accordance with the Final Site Plan and the Final Construction Plans, each as
hereinafter defined, by *February 28, 2015*, or said transfer station facility is not operational by

May 30, 2015, this Agreement shall then be automatically and immediately terminated as of that date.

B. As used herein, the "Commencement Date" shall mean the date on which the last of the following events shall have occurred: (i) the date on which CITY shall obtain site plan approval by the Portland Planning Board of the Final Site Plan (the "Planning Board Approval"); (ii) the date on which CITY shall obtain an a Portland City Council order amending the 1983 Amendment Re: Conditional Rezoning of Pt. McKinley, to allow for the proposed transfer station facility as depicted on the Final Site Plan (the "City Council Order"); and (iii) the date on which CITY shall obtain the 2014 DEP Site Location Order, as hereinafter defined in Section 7(A) below. In the event the Commencement Date shall not occur by *October 1, 2014*, this Agreement shall then be automatically and immediately terminated as of that date.

2. Rent

From and after the Commencement Date, CITY agrees to pay to LESSOR as rent for such use and occupancy of the PREMISES the sum of One Dollar (\$1.00) per year, payable in advance. This is a 'net lease', that is, the costs of constructing and operating the transfer station facility shall be borne solely by CITY. CITY will pay any fees related to the improvements which are the transfer station facility, including but not limited to permit fees, and all costs of utility services necessary for the operation of the transfer station facility. CITY will not pay any real estate taxes on the PREMISES, but shall be responsible for any taxes or assessments on the building or improvements constructed by CITY at the PREMISES.

3. Purposes

(A) CITY shall use the PREMISES solely for the development, construction (including landscaping) and maintenance of a transfer station facility to provide trash compaction, recycling services, and short term storage of trash and materials to be recycled, within the screened improvements to be built on the PREMISES. Only trash and materials to be recycled that have been generated on Great Diamond Island or Little Diamond Island will be so processed at said transfer station facility. CITY will not knowingly or intentionally store or process hazardous waste on the PREMISES. CITY will not be permitted to build any improvements on the PREMISES other than those shown on the Final Site Plan and Final Construction Plans for this transfer station facility.

(B) There shall be no parking on the PREMISES unless related or incident to the trash processing and recycling, and then not overnight. There shall be no staging or storage of equipment on the PREMISES unless related or incident to the trash processing and recycling, and then only very short term.

(C) Subject to (i) the construction of the transfer station facility in accordance with the Final Site Plan and the Final Construction Plans and the conduct of the operation of said transfer station facility in accordance with this Agreement, and (ii) CITY's obtaining the 2014 DEP Site Location Order, LESSOR represents to CITY that such purposes are permitted under the private regulation of the PREMISES set forth in the Amended and Restated General

Declaration of Covenants and Restrictions dated December 17, 1993 and recorded at the Cumberland County Registry of Deeds in Book 11277, Page 322; as modified and amended (hereinafter the "DCHA Declaration").

4. Access

Appurtenant to the CITY's leasehold of the PREMISES, CITY shall have a nonexclusive right to access the PREMISES from the "Lower Gate" and from the existing Diamond Cove Barge Landing, over the most direct, existing roadways, subject to the rules attached hereto as Exhibit C. CITY will repair any damage it causes to such defined access ways; and in addition, will provide limited annual general maintenance to such ways, such by as spreading several loads of gravel on said (gravel) ways, annually.

5. Site Plan and Facility Operation

CITY covenants and agrees:

A. that a plan of the Premises, as well as a preliminary site plan of the transfer station facility, not yet approved by the Portland Planning Board or Planning Board staff, are attached to this Agreement as Exhibit B (hereinafter collectively, the "Preliminary Site Plan");

B. that the transfer station facility will be constructed in accord with the Final Site Plan and the Final Construction Plans, including, but not limited to, the landscaping elements of such Plans, and the visual screening and any fencing elements of said Plans;

C. that in the event the CITY proposes to revise the Preliminary Site Plan, the CITY will provide LESSOR with a preliminary draft of the proposed revision; and in the event the proposed revision is material (as determined by City Corporation Counsel in its reasonable discretion), the CITY will incorporate any suggestions received by the CITY from LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing such revision to LESSOR, provided that in the event such suggested changes cannot be made by the CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City Council Order, the 2014 DEP Site Location Order, or other required approvals for the transfer station facility, the parties will work in good faith to revise the Preliminary Site Plan to meet both of their respective needs; the Preliminary Site Plan (with any modifications not deemed material as determined by City Corporation Counsel in its reasonable discretion) or a revised version of it that is approved by the parties pursuant to this Section shall constitute the "Final Site Plan", and the Final Site Plan is hereby incorporated by reference herein and Exhibit B shall be deemed revised accordingly;

D. that CITY will prepare and submit to LESSOR proposed construction plans for the transfer station facility and CITY will incorporate any suggestions made by LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing of said proposed construction plans to LESSOR, provided that in the event such suggested changes cannot be made by CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City

Council Order, the 2014 DEP Site Location Order, or other required approvals for the transfer station facility, the parties will work in good faith to revise such proposed construction plans to meet both of their respective needs; the proposed construction plans or a revised version of them that are approved by the parties pursuant to this Section shall constitute the "Final Construction Plans"; and the Final Construction Plans are hereby incorporated by reference herein.

E. that the transfer station facility will be operated in accord with any operational elements of the Final Site Plan;

F. that the CITY will operate the transfer station facility in accord with any conditions required by the DCHA Declaration (including, without limitation, DCHA Declaration Section 4.18), the Planning Board Approval, the City Council Order, the 2014 DEP Site Location Order, and any other required approvals for the transfer station facility;

G. that under the normal course of operation, there will be no more than four to six (4-6) deliveries of waste/recycling per week by the CITY to the transfer station facility and, during summer months, at least one transfer of waste/recycling per week from the two transfer station hopper/compactor units off the island, and the two separate transfer station roll-off containers will be removed when full and then emptied and returned, all by appropriately sized vehicles; and

H. to operate the transfer station facility in a responsible, clean and orderly manner, and in addition to the regular removal of waste/recycling described above, to make reasonable best efforts to minimize odors emitted from the PREMISES.

6. Costs of Development and Maintenance of the Premises

The CITY shall provide all clearing, grading and construction of the transfer station facility and other development set forth in the Final Site Plan and Final Construction Plans, and otherwise all as deemed necessary by the CITY for its proposed use. LESSOR hereby consents to the crossing of the other portions of LESSOR's real property as reasonably necessary for such purposes. The CITY shall provide all services deemed necessary to maintain the PREMISES in a safe condition all as deemed necessary by CITY.

7. Location of Structures and Use; 2013 Forest Management Plan/Manual

A. All structures, site improvements and/or changes in the PREMISES shall be located or done in accordance with the laws, rules and regulations of all applicable federal, state and local jurisdictions. The parties acknowledge the following:

- (i) the PREMISES are located in the vicinity of "Compartment B" as defined in (i) a report dated March 31, 1989 and titled "Forest Management Plan for the Old Growth Softwood Stand on Diamond Cove Associates Property on Great Diamond Island, Casco Bay, City of Portland, Maine" prepared by Eco-Analysts, Inc. (the "1989 Forest Management Plan") and (ii) a report dated January 19, 1989 and titled "Operations Manual for Activities Adjacent To and Within The Old Growth Stand of Trees Within The Diamond Cove Development On Great

Diamond Island" prepared by Eco-Analysis, Inc. (the "1989 Stand Operations Manual");

- (ii) by Maine Department of Environmental Protection ("DEP") Condition Compliance Order dated July 5, 1989 and recorded at the Cumberland County Registry of Deeds in Book 8833, Page 12 and re-recorded in Book 8902, Page 118 (the "1989 DEP Site Location Order"), the DEP expressly referenced both the 1989 Forest Management Plan and the 1989 Stand Operations Manual in connection with its approval of Diamond Cove Phase I; and
- (iii) for several reasons, including an infestation of hemlock woolly adelgid and concerns about dangerous fire conditions identified by Maine Licensed Foresters, LESSOR has engaged a Maine Licensed Forester to update and amend the 1989 Forest Management Plan and the 1989 Stand Operations Manual, and the updated and amended forest management plan and stand operations manual is attached hereto as Exhibit D (collectively, the "2013 Forest Management Plan/Manual").

CITY agrees to submit such 2013 Forest Management Plan/Manual to the DEP, in connection with CITY's application for approval by the DEP of the transfer station facility. This Agreement is subject to CITY's obtaining a DEP Site Location modification order satisfactory to LESSOR (the "2014 DEP Site Location Order") that... (a) modifies the 1989 DEP Site Location Order by expressly replacing references to the 1989 Forest Management Plan and the 1989 Stand Operations Manual with the 2013 Forest Management Plan/Manual, and (b) confirms that the transfer station facility at the PREMISES, as approved by the DEP, is permitted by such 2013 Forest Management Plan/Manual. In the event the DEP shall propose revisions to the 2013 Forest Management Plan/Manual before issuing such a 2014 DEP Site Location Order, the parties will work in good faith to revise the 2013 Forest Management Plan/Manual to meet both of their respective needs and the requirements of the DEP; provided, however, that if the parties shall fail to agree on a final 2013 Forest Management Plan/Manual that is expressly incorporated into a 2014 DEP Site Location Order by *October 1, 2014*, this Agreement shall then be automatically and immediately terminated as of that date.

B. Work done on the PREMISES will either be conducted by a Contractor or by the CITY's Department of Public Services. If the work is performed by a Contractor, the Contractor shall provide a performance bond for work performed on the PREMISES. LESSOR shall be named as co-obligee on the bond. The Contractor performing the work for CITY shall also procure general liability insurance in the minimum amounts of \$1,000,000 for each occurrence, and \$2,000,000 in the 'general aggregate' for bodily injury, death and property damage, naming CITY and LESSOR as additional insureds thereon.

C. The general public shall not be allowed by the CITY to have access to the transfer station facility to be built on the PREMISES; however, the LESSOR and its property management company, or the person or entity with property management responsibilities or trash pick-up responsibilities as agent for the LESSOR, shall be allowed access to the PREMISES, including the transfer station facility, for the disposal of trash and recyclables, provided that all such trash (except large items) shall be bagged as required from time to time by the CITY, such

as, inside the colored trash bags sold in support of its waste disposal system; and all such recyclables shall also be bagged or packaged as required by the CITY, from time to time.

8. Maintenance and Repairs, and Surrender Upon Termination

CITY represents that it has inspected and examined the PREMISES and accepts them in their present condition, and agrees that LESSOR shall not be required to make any improvements or repairs or provide any services whatsoever in or upon the PREMISES or any part thereof; CITY agrees to keep said PREMISES and the transfer station facility safe and in good order and condition at all times during the term hereof, and upon expiration of this Agreement or any sooner termination thereof, the CITY will quit and surrender the possession of the PREMISES quietly and peaceably and leave it in as good order and condition as they were at the commencement hereof. Upon such surrender of possession, the CITY may leave the screened improvements on the PREMISES provided that they then are in good order and condition (with CITY having performed required maintenance to date), reasonable wear and tear excepted, and shall remove any equipment and any fixtures (except as otherwise agreed by LESSOR), and will offer for sale to the LESSOR the trash compactors located within said screened improvements, at their then fair market value, given their age and condition, as determined by agreement of the parties, and if no such agreement is reached within 45 days, as determined by a valuation made by an independent third party chosen by the CITY and LESSOR. The obligations of CITY pursuant to this Section shall survive the expiration or termination of this Agreement.

9. Various City Commitments

A. CITY covenants and agrees, subject to the availability of funds, any required City Council approval, and any other required governmental approvals:

(i) When a term lease between the LESSOR and the CITY has been executed for the existing Diamond Cove Barge Landing, to make repairs to that facility or re-build that facility (in addition to the 'stop-gap' repairs already made by CITY prior to the date hereof), as soon as required by that facility;

(ii) to monitor animal or 'varmint' access to the waste stored on the PREMISES, and respond to any such access accordingly; and

B. CITY covenants and agrees to observe the conditions imposed by its proposed settlement in the litigation involving LESSOR and the Diamond Cove Barge Landing, including the conditions listed on the attached Exhibit C; in addition, CITY covenants and agrees not to park any vehicles overnight on the Diamond Cove ('Fort') one-half of Great Diamond Island, except in emergency circumstances. CITY further covenants and agrees to observe any conditions imposed by the DEP with respect to use of the Diamond Cove Barge Landing and adjacent roadways.

10. Liability

LESSOR shall not be liable for damage to or loss of property of any kind which may be lost or stolen, damaged or destroyed by fire, water or otherwise, while on the PREMISES. Up to the limits of, and subject to the terms and provisions of the Maine Tort Claims Act, CITY agrees to indemnify and save LESSOR harmless from all liability, loss or damage arising from any nuisance made or suffered on the PREMISES by CITY, the CITY's guests, invitees, agents or servants due to any carelessness, neglect or improper conduct of any such persons; however, and by way of limitation of this indemnity and holding harmless, nothing herein is intended to, nor shall it be deemed to, waive, amend or otherwise modify any claim of immunity, any defense or any limitation of liability available to CITY under the Maine Tort Claims Act, 14 M.R.S.A. § 8101 et seq.

11. Default

In the event that CITY shall be in default in the performance of any of the terms, covenants, agreements or conditions herein agreed to be kept and performed by CITY, then in that event, LESSOR may terminate this Agreement as provided in Section 18 of this Agreement.

12. Hold Over

In the event that CITY shall hold over and remain in possession of the PREMISES with the consent of LESSOR, such holding over shall be deemed to be from month to month only, and upon all the same rents, terms, covenants and conditions as contained herein.

13. Notices

Any notices which are required hereunder, or which either CITY or LESSOR may desire to serve upon the other shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage pre-paid, return receipt requested, addressed to LESSOR, Diamond Cove Homeowners Association, c/o Phoenix Management, P.O. Box 759, Saco, ME 04072 and LESSOR, Diamond Cove Homeowners Association Board, Great Diamond Island, Portland, ME; or addressed to CITY, Mark H. Rees, City Manager, 389 Congress Street, Portland, ME 04101.

14. Subletting or Assignment

The CITY shall not sublet the PREMISES or assign its rights hereunder without the express written consent of LESSOR.

15. Inspections and Access

The CITY shall allow LESSOR to inspect the PREMISES, including the transfer station facility, at all reasonable times to insure compliance with the terms and conditions herein, including but not limited to compatible uses, maintenance, safety of operations and access on common rights of way.

16. Sale of the Premises

LESSOR agrees that if, during the term of this Agreement and extension, it sells the PREMISES, it shall assign its obligations under this Agreement to the buyer of the PREMISES.

17. Recordation in Registry of Deeds

The parties agree to execute and record in the Cumberland County Registry of Deeds a Memorandum of Lease outlining the principal terms of this Agreement.

18. Termination

A. CITY may terminate this Agreement upon one (1) year written notice to LESSOR.

B. LESSOR may terminate this Agreement upon a one (1) year written notice for failure of the CITY to observe and perform any of its terms, covenants, agreements or conditions hereunder, and such failure shall not have been cured within any time period specified herein or within 90 days of written notice to do so.

19. Waiver

Waiver by either party of any default in performance by the other of any of the terms, covenants, agreements or conditions contained herein, shall not be deemed a continuing waiver of the same or any subsequent default herein.

IN WITNESS WHEREOF, the said CITY OF PORTLAND has caused this Lease Agreement to be signed in its corporate name and sealed with its corporate seal by Mark H. Rees, its City Manager, thereunto duly authorized, and DIAMOND COVE HOMEOWNERS ASSOCIATION has caused this Lease Agreement to be signed by Matthew Hoffman, its Director and Operations Officer thereunto duly authorized, as of the day and date first set forth above.

WITNESS:

Amiee Bean

CITY OF PORTLAND

By:

Mark H. Rees
Mark H. Rees
its City Manager

STATE OF MAINE
CUMBERLAND, ss.

March
February 19, 2014

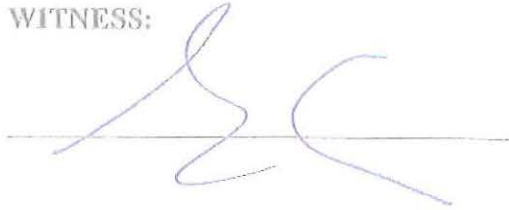
Personally appeared before me the above-named Mark H. Rees, City Manager of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of the City of Portland.

Before me,

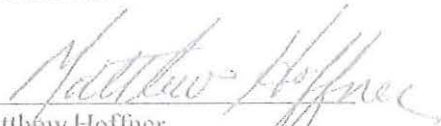
Amiee Bean
Notary Public/Attorney-at-Law

SCOTT L. LAY
Notary Public, ME
My Commission Expires January 15, 2017

WITNESS:



DIAMOND COVE HOMEOWNERS
ASSOCIATION

By: 
Matthew Hoffner
Its Director and Operations Officer

STATE OF MAINE
CUMBERLAND, ss.

February 14, 2014

Personally appeared before me the above-named Matthew Hoffner, Director and Operations Officer of Diamond Cove Homeowners Association, and made oath that the foregoing is his free act and deed and the free act and deed of Diamond Cove Homeowners Association.

Before me,


Notary Public/Attorney-at-Law

JUDE A. CLUFF
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES OCTOBER 27, 2020

Exhibit A

Leased Land for Proposed Transfer Station on Land
of Diamond Cove Homeowners Association

A certain lot or parcel of land located on Great Diamond Island, City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at the southeasterly corner of land now or formerly of Jesse S. and Evelyn C. K. Harriott (Book 25439 Page 248; City of Portland Tax Map Lot 83B-B-7).

Thence N 45° 05' 04" E two hundred seventy-two and ninety-nine hundredths feet (272.99') along the southeasterly boundary line of said land of Harriott to the northeasterly corner of said Harriott land and the southwesterly street line of Wood Side Drive.

Thence S 44° 54' 56" E one hundred seventy-nine and twenty-seven hundredths feet (179.27') along said southwesterly street line of Wood Side Drive to an angle point in said street line.

Thence S 40° 52' 40" W two hundred nineteen and forty-nine hundredths feet (219.49') through land now or formerly of Diamond Cove Homeowners Association (Book 24560 Page 106; City of Portland Tax Map Lot 83B-B-1) to a point in a gravel driveway or roadway and the Point of Beginning. Said Point of Beginning also being located S 60° 23' 34" E two hundred two and seventy-three hundredths feet (202.73') from said southeasterly corner of said land now or formerly of Harriott.

Thence continuing through said land now or formerly of said Diamond Cove Homeowners Association by the following courses and distances:

S 6° 20' 18" E two hundred twenty-nine and zero hundredths feet (229.00') to a point;

S 43° 24' 45" W one hundred eight and zero hundredths feet (108.00') to a point;

S 84° 09' 35" W one hundred sixty-six and zero hundredths feet (166.00') to a point;

N 4° 24' 42" W one hundred sixty-one and fifty hundredths feet (161.50') to a point;

N 30° 03' 59" E one hundred forty and fifty hundredths feet (140.50') to a point in a gravel driveway or roadway, said point being located S 8° 09' 33" E one hundred forty-one and ninety-two hundredths feet (141.92') from said southeasterly corner of said land now or formerly of Harriott;

S 31° 26' 26" E forty-six and fifty hundredths feet (46.50') to a point in a gravel driveway or roadway;

S 74° 03' 49" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 81° 25' 21" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 39° 34' 33" E one hundred nine and zero hundredths feet (109.00') to the Point of Beginning.

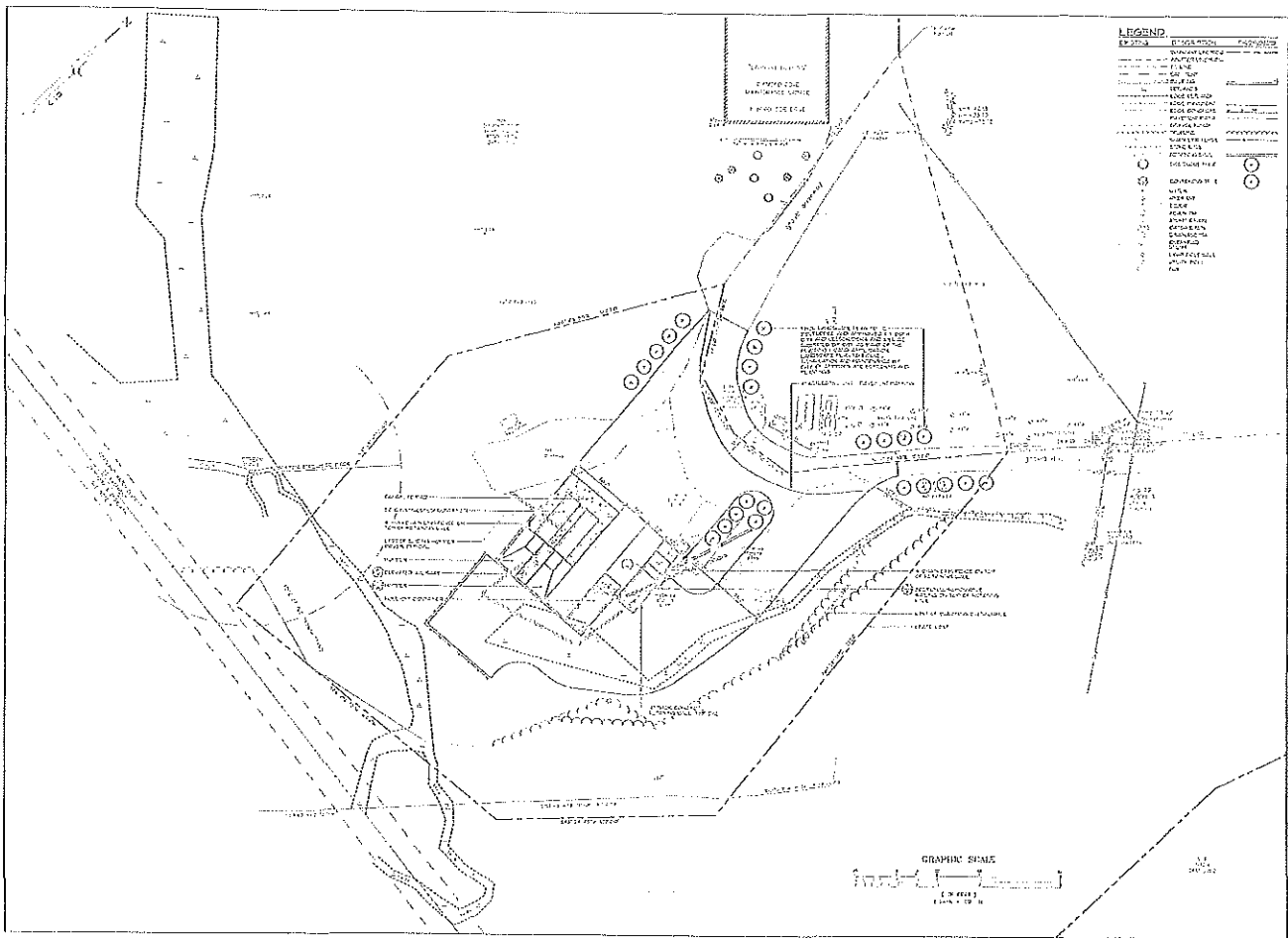
Said lot of land containing 55,050 square feet (1.3 acres), more or less.

Bearings herein are referenced to Grid North. All deed book numbers refer to the Cumberland County Registry of Deeds.

Reference is made to a plan entitled "Proposed Transfer Station Site – Lease Limit Boundary Plan, Woodside Drive, Diamond Cove, Great Diamond Island, Portland, Maine", dated September 4, 2013, on file in the City Engineer's Archives, Department of Public Services, 55 Portland Street, Portland, Maine.

(Description by City of Portland, William G. Scott, P.L.S. 2239, September 4, 2013)

Exhibit B, page 1 of 2



NOT FOR CONSTRUCTION

PROCESSED PRINT

DATE	10/1/88
BY	J. J. J.
CHECKED BY	J. J. J.
APPROVED BY	J. J. J.
PROJECT NO.	1000000000
SHEET NO.	1
TOTAL SHEETS	1

SE-100

SITE PLAN
GREAT DIAMOND ISLAND TRANSFER AND RECYCLING FACILITY
CITY OF PORTLAND
PROJECT NO. 1000000000
SHEET 1 OF 1

Exhibit C

SPECIAL RULES REGARDING PARKING AND ANTI-IDLING POLICIES FOR USE OF THE BARGE LANDING OWNED BY DIAMOND COVE HOMEOWNERS ASSOCIATION

Note: Exceptions to the following rules will be made for emergency vehicles and/or emergency situations. These rules do not supersede other DCHA policies pertaining to the barge landing that are now in effect or that may be implemented in the future by the DCHA.

Parking and Loading/Off-loading of Vehicles:

Vehicles may be parked temporarily only in the following permitted parking area prior to and following a scheduled barge delivery:

On the cement pad located to the east of the barge landing on Wood Side Drive, between the hours of 9:00 a.m. to 5:00 p.m. only.

All vehicle operators shall comply with the vehicle anti-idling policy that is used by the City of Portland for its own vehicles.

Days/Hours of Operation:

- Days of operation for City vehicles will be Monday through Saturday only.
- Days of operation for other non-DCHA vehicles (i.e., vehicles servicing the public side of the Island) will be Monday through Friday only.
- Hours of operation for City vehicles and other non-DCHA vehicles will be from 7:00 a.m. to 8:00 p.m. Monday-Friday and 7:00 a.m. to 6:00 p.m. on Saturday.
- DCHA vehicles (i.e., vehicles servicing DCHA property or property of DCHA members) are not subject to these hours and days of operations restrictions.

Reports of Non-Compliance:

Any reports of non-compliance of these rules shall be reported to the City of Portland's Island and Neighborhood Liaison, who shall provide notice of any or all said reports to the DCHA.

The DCHA reserves the right to revoke permission to use the barge landing from non-DCHA vehicles or any operator thereof deemed to be in violation of any of these rules.

LEASE AGREEMENT
FOR TRANSFER STATION
BY AND BETWEEN
CITY OF PORTLAND AND
DIAMOND COVE HOMEOWNERS ASSOCIATION

THIS LEASE AGREEMENT (hereinafter this "Agreement") is made as of this 17th
April day of February, 2014, by and between the CITY OF PORTLAND, a municipal corporation located in Cumberland County, State of Maine (hereinafter the "CITY") and DIAMOND COVE HOMEOWNERS ASSOCIATION, a Maine not-for-profit corporation doing business on Great Diamond Island, Maine (hereinafter "LESSOR").

WITNESSETH:

That LESSOR, for and in consideration of the rent hereinafter to be paid by CITY, and other consideration, and the covenants and agreements hereinafter contained, to be kept and performed by CITY, does hereby demise, lease and let unto CITY, the property located at or near the 'laundry building' on Great Diamond Island in Portland, Maine and more particularly described in Exhibit A (hereinafter the "PREMISES"), to have and to hold unto said CITY on the following terms and conditions:

1. Term and Renewal; Commencement Date

A. The initial term of this Agreement shall begin on the Commencement Date (as hereinafter defined), and shall continue until midnight on the last day of the calendar month containing the twentieth (20th) anniversary of the Commencement Date, unless sooner terminated by either party as provided herein. This Agreement shall renew automatically for four (4) additional 20-year terms, unless either party gives the other notice of non-renewal at least 30 days before such end of the 20-year term. The grounds for non-renewal shall be the same as the grounds for termination, set out in Section 18 of this Agreement; but in addition, however, if the CITY fails to substantially complete the construction of a transfer station facility on the PREMISES in accordance with the Final Site Plan and the Final Construction Plans, each as hereinafter defined, by *February 28, 2015*, or said transfer station facility is not operational by

May 30, 2015, this Agreement shall then be automatically and immediately terminated as of that date.

B. As used herein, the "Commencement Date" shall mean the date on which the last of the following events shall have occurred: (i) the date on which CITY shall obtain site plan approval by the Portland Planning Board of the Final Site Plan (the "Planning Board Approval"); (ii) the date on which CITY shall obtain an a Portland City Council order amending the 1983 Amendment Re: Conditional Rezoning of Pt. McKinley, to allow for the proposed transfer station facility as depicted on the Final Site Plan (the "City Council Order"); and (iii) the date on which CITY shall obtain the 2014 DEP Site Location Order, as hereinafter defined in Section 7(A) below. In the event the Commencement Date shall not occur by *October 1, 2014*, this Agreement shall then be automatically and immediately terminated as of that date.

2. Rent

From and after the Commencement Date, CITY agrees to pay to LESSOR as rent for such use and occupancy of the PREMISES the sum of One Dollar (\$1.00) per year, payable in advance. This is a 'net lease', that is, the costs of constructing and operating the transfer station facility shall be borne solely by CITY. CITY will pay any fees related to the improvements which are the transfer station facility, including but not limited to permit fees, and all costs of utility services necessary for the operation of the transfer station facility. CITY will not pay any real estate taxes on the PREMISES, but shall be responsible for any taxes or assessments on the building or improvements constructed by CITY at the PREMISES.

3. Purposes

(A) CITY shall use the PREMISES solely for the development, construction (including landscaping) and maintenance of a transfer station facility to provide trash compaction, recycling services, and short term storage of trash and materials to be recycled, within the screened improvements to be built on the PREMISES. Only trash and materials to be recycled that have been generated on Great Diamond Island or Little Diamond Island will be so processed at said transfer station facility. CITY will not knowingly or intentionally store or process hazardous waste on the PREMISES. CITY will not be permitted to build any improvements on the PREMISES other than those shown on the Final Site Plan and Final Construction Plans for this transfer station facility.

(B) There shall be no parking on the PREMISES unless related or incident to the trash processing and recycling, and then not overnight. There shall be no staging or storage of equipment on the PREMISES unless related or incident to the trash processing and recycling, and then only very short term.

(C) Subject to (i) the construction of the transfer station facility in accordance with the Final Site Plan and the Final Construction Plans and the conduct of the operation of said transfer station facility in accordance with this Agreement, and (ii) CITY's obtaining the 2014 DEP Site Location Order, LESSOR represents to CITY that such purposes are permitted under the private regulation of the PREMISES set forth in the Amended and Restated General

Declaration of Covenants and Restrictions dated December 17, 1993 and recorded at the Cumberland County Registry of Deeds in Book 11277, Page 322; as modified and amended (hereinafter the "DCHA Declaration").

4. Access

Appurtenant to the CITY's leasehold of the PREMISES, CITY shall have a nonexclusive right to access the PREMISES from the "Lower Gate" and from the existing Diamond Cove Barge Landing, over the most direct, existing roadways, subject to the rules attached hereto as Exhibit C. CITY will repair any damage it causes to such defined access ways; and in addition, will provide limited annual general maintenance to such ways, such by as spreading several loads of gravel on said (gravel) ways, annually.

5. Site Plan and Facility Operation

CITY covenants and agrees:

A. that a plan of the Premises, as well as a preliminary site plan of the transfer station facility, not yet approved by the Portland Planning Board or Planning Board staff, are attached to this Agreement as Exhibit B (hereinafter collectively, the "Preliminary Site Plan");

B. that the transfer station facility will be constructed in accord with the Final Site Plan and the Final Construction Plans, including, but not limited to, the landscaping elements of such Plans, and the visual screening and any fencing elements of said Plans;

C. that in the event the CITY proposes to revise the Preliminary Site Plan, the CITY will provide LESSOR with a preliminary draft of the proposed revision; and in the event the proposed revision is material (as determined by City Corporation Counsel in its reasonable discretion), the CITY will incorporate any suggestions received by the CITY from LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing such revision to LESSOR, provided that in the event such suggested changes cannot be made by the CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City Council Order, the 2014 DEP Site Location Order, or other required approvals for the transfer station facility, the parties will work in good faith to revise the Preliminary Site Plan to meet both of their respective needs; the Preliminary Site Plan (with any modifications not deemed material as determined by City Corporation Counsel in its reasonable discretion) or a revised version of it that is approved by the parties pursuant to this Section shall constitute the "Final Site Plan", and the Final Site Plan is hereby incorporated by reference herein and Exhibit B shall be deemed revised accordingly;

D. that CITY will prepare and submit to LESSOR proposed construction plans for the transfer station facility and CITY will incorporate any suggestions made by LESSOR that are determined by LESSOR to be necessary for its representation in Section 3.C above and are received by CITY within 30 days of mailing of said proposed construction plans to LESSOR, provided that in the event such suggested changes cannot be made by CITY reasonably cost effectively, or are in conflict with any requirements for the Planning Board Approval, the City

Council Order, the 2014 DEP Site Location Order, or other required approvals for the transfer station facility, the parties will work in good faith to revise such proposed construction plans to meet both of their respective needs; the proposed construction plans or a revised version of them that are approved by the parties pursuant to this Section shall constitute the "Final Construction Plans"; and the Final Construction Plans are hereby incorporated by reference herein.

E. that the transfer station facility will be operated in accord with any operational elements of the Final Site Plan;

F. that the CITY will operate the transfer station facility in accord with any conditions required by the DCHA Declaration (including, without limitation, DCHA Declaration Section 4.18), the Planning Board Approval, the City Council Order, the 2014 DEP Site Location Order, and any other required approvals for the transfer station facility;

G. that under the normal course of operation, there will be no more than four to six (4-6) deliveries of waste/recycling per week by the CITY to the transfer station facility and, during summer months, at least one transfer of waste/recycling per week from the two transfer station hopper/compactor units off the island, and the two separate transfer station roll-off containers will be removed when full and then emptied and returned, all by appropriately sized vehicles; and

H. to operate the transfer station facility in a responsible, clean and orderly manner, and in addition to the regular removal of waste/recycling described above, to make reasonable best efforts to minimize odors emitted from the PREMISES.

6. Costs of Development and Maintenance of the Premises

The CITY shall provide all clearing, grading and construction of the transfer station facility and other development set forth in the Final Site Plan and Final Construction Plans, and otherwise all as deemed necessary by the CITY for its proposed use. LESSOR hereby consents to the crossing of the other portions of LESSOR's real property as reasonably necessary for such purposes. The CITY shall provide all services deemed necessary to maintain the PREMISES in a safe condition all as deemed necessary by CITY.

7. Location of Structures and Use; 2013 Forest Management Plan/Manual

A. All structures, site improvements and/or changes in the PREMISES shall be located or done in accordance with the laws, rules and regulations of all applicable federal, state and local jurisdictions. The parties acknowledge the following:

- (i) the PREMISES are located in the vicinity of "Compartment B" as defined in (i) a report dated March 31, 1989 and titled "Forest Management Plan for the Old Growth Softwood Stand on Diamond Cove Associates Property on Great Diamond Island, Casco Bay, City of Portland, Maine" prepared by Eco-Analysis, Inc. (the "1989 Forest Management Plan") and (ii) a report dated January 19, 1989 and titled "Operations Manual for Activities Adjacent To and Within The Old Growth Stand of Trees Within The Diamond Cove Development On Great

Diamond Island" prepared by Eco-Analysts, Inc. (the "1989 Stand Operations Manual");

- (ii) by Maine Department of Environmental Protection ("DEP") Condition Compliance Order dated July 5, 1989 and recorded at the Cumberland County Registry of Deeds in Book 8833, Page 12 and re-recorded in Book 8902, Page 118 (the "1989 DEP Site Location Order"), the DEP expressly referenced both the 1989 Forest Management Plan and the 1989 Stand Operations Manual in connection with its approval of Diamond Cove Phase I; and
- (iii) for several reasons, including an infestation of hemlock woolly adelgid and concerns about dangerous fire conditions identified by Maine Licensed Foresters, LESSOR has engaged a Maine Licensed Forester to update and amend the 1989 Forest Management Plan and the 1989 Stand Operations Manual, and the updated and amended forest management plan and stand operations manual is attached hereto as Exhibit D (collectively, the "2013 Forest Management Plan/Manual").

CITY agrees to submit such 2013 Forest Management Plan/Manual to the DEP, in connection with CITY's application for approval by the DEP of the transfer station facility. This Agreement is subject to CITY's obtaining a DEP Site Location modification order satisfactory to LESSOR (the "2014 DEP Site Location Order") that (a) modifies the 1989 DEP Site Location Order by expressly replacing references to the 1989 Forest Management Plan and the 1989 Stand Operations Manual with the 2013 Forest Management Plan/Manual, and (b) confirms that the transfer station facility at the PREMISES, as approved by the DEP, is permitted by such 2013 Forest Management Plan/Manual. In the event the DEP shall propose revisions to the 2013 Forest Management Plan/Manual before issuing such a 2014 DEP Site Location Order, the parties will work in good faith to revise the 2013 Forest Management Plan/Manual to meet both of their respective needs and the requirements of the DEP; provided, however, that if the parties shall fail to agree on a final 2013 Forest Management Plan/Manual that is expressly incorporated into a 2014 DEP Site Location Order by *October 1, 2014*, this Agreement shall then be automatically and immediately terminated as of that date.

B. Work done on the PREMISES will either be conducted by a Contractor or by the CITY's Department of Public Services. If the work is performed by a Contractor, the Contractor shall provide a performance bond for work performed on the PREMISES. LESSOR shall be named as co-obligee on the bond. The Contractor performing the work for CITY shall also procure general liability insurance in the minimum amounts of \$1,000,000 for each occurrence, and \$2,000,000 in the 'general aggregate' for bodily injury, death and property damage, naming CITY and LESSOR as additional insureds thereon.

C. The general public shall not be allowed by the CITY to have access to the transfer station facility to be built on the PREMISES; however, the LESSOR and its property management company, or the person or entity with property management responsibilities or trash pick-up responsibilities as agent for the LESSOR, shall be allowed access to the PREMISES, including the transfer station facility, for the disposal of trash and recyclables, provided that all such trash (except large items) shall be bagged as required from time to time by the CITY, such

as, inside the colored trash bags sold in support of its waste disposal system; and all such recyclables shall also be bagged or packaged as required by the CITY, from time to time.

8. Maintenance and Repairs, and Surrender Upon Termination

CITY represents that it has inspected and examined the PREMISES and accepts them in their present condition, and agrees that LESSOR shall not be required to make any improvements or repairs or provide any services whatsoever in or upon the PREMISES or any part thereof; CITY agrees to keep said PREMISES and the transfer station facility safe and in good order and condition at all times during the term hereof, and upon expiration of this Agreement or any sooner termination thereof, the CITY will quit and surrender the possession of the PREMISES quietly and peaceably and leave it in as good order and condition as they were at the commencement hereof. Upon such surrender of possession, the CITY may leave the screened improvements on the PREMISES provided that they then are in good order and condition (with CITY having performed required maintenance to date), reasonable wear and tear excepted, and shall remove any equipment and any fixtures (except as otherwise agreed by LESSOR), and will offer for sale to the LESSOR the trash compactors located within said screened improvements, at their then fair market value, given their age and condition, as determined by agreement of the parties, and if no such agreement is reached within 45 days, as determined by a valuation made by an independent third party chosen by the CITY and LESSOR. The obligations of CITY pursuant to this Section shall survive the expiration or termination of this Agreement.

9. Various City Commitments

A. CITY covenants and agrees, subject to the availability of funds, any required City Council approval, and any other required governmental approvals:

(i) When a term lease between the LESSOR and the CITY has been executed for the existing Diamond Cove Barge Landing, to make repairs to that facility or re-build that facility (in addition to the 'stop-gap' repairs already made by CITY prior to the date hereof), as soon as required by that facility;

(ii) to monitor animal or 'varmint' access to the waste stored on the PREMISES, and respond to any such access accordingly; and

B. CITY covenants and agrees to observe the conditions imposed by its proposed settlement in the litigation involving LESSOR and the Diamond Cove Barge Landing, including the conditions listed on the attached Exhibit C; in addition, CITY covenants and agrees not to park any vehicles overnight on the Diamond Cove ('Port') one-half of Great Diamond Island, except in emergency circumstances. CITY further covenants and agrees to observe any conditions imposed by the DEP with respect to use of the Diamond Cove Barge Landing and adjacent roadways.

10. Liability

LESSOR shall not be liable for damage to or loss of property of any kind which may be lost or stolen, damaged or destroyed by fire, water or otherwise, while on the PREMISES. Up to the limits of, and subject to the terms and provisions of the Maine Tort Claims Act, CITY agrees to indemnify and save LESSOR harmless from all liability, loss or damage arising from any nuisance made or suffered on the PREMISES by CITY, the CITY's guests, invitees, agents or servants due to any carelessness, neglect or improper conduct of any such persons; however, and by way of limitation of this indemnity and holding harmless, nothing herein is intended to, nor shall it be deemed to, waive, amend or otherwise modify any claim of immunity, any defense or any limitation of liability available to CITY under the Maine Tort Claims Act, 14 M.R.S.A. § 8101 et seq.

11. Default

In the event that CITY shall be in default in the performance of any of the terms, covenants, agreements or conditions herein agreed to be kept and performed by CITY, then in that event, LESSOR may terminate this Agreement as provided in Section 18 of this Agreement.

12. Hold Over

In the event that CITY shall hold over and remain in possession of the PREMISES with the consent of LESSOR, such holding over shall be deemed to be from month to month only, and upon all the same rents, terms, covenants and conditions as contained herein.

13. Notices

Any notices which are required hereunder, or which either CITY or LESSOR may desire to serve upon the other shall be in writing and shall be deemed served when delivered personally, or when deposited in the United States mail, postage pre-paid, return receipt requested, addressed to LESSOR, Diamond Cove Homeowners Association, c/o Phoenix Management, P.O. Box 759, Saco, ME 04072 and LESSOR, Diamond Cove Homeowners Association Board, Great Diamond Island, Portland, ME; or addressed to CITY, Mark H. Rees, City Manager, 389 Congress Street, Portland, ME 04101.

14. Subletting or Assignment

The CITY shall not sublet the PREMISES or assign its rights hereunder without the express written consent of LESSOR.

15. Inspections and Access

The CITY shall allow LESSOR to inspect the PREMISES, including the transfer station facility, at all reasonable times to insure compliance with the terms and conditions herein, including but not limited to compatible uses, maintenance, safety of operations and access on common rights of way.

16. Sale of the Premises

LESSOR agrees that if, during the term of this Agreement and extension, it sells the PREMISES, it shall assign its obligations under this Agreement to the buyer of the PREMISES.

17. Recordation in Registry of Deeds

The parties agree to execute and record in the Cumberland County Registry of Deeds a Memorandum of Lease outlining the principal terms of this Agreement.

18. Termination

A. CITY may terminate this Agreement upon one (1) year written notice to LESSOR.

B. LESSOR may terminate this Agreement upon a one (1) year written notice for failure of the CITY to observe and perform any of its terms, covenants, agreements or conditions hereunder, and such failure shall not have been cured within any time period specified herein or within 90 days of written notice to do so.

19. Waiver

Waiver by either party of any default in performance by the other of any of the terms, covenants, agreements or conditions contained herein, shall not be deemed a continuing waiver of the same or any subsequent default herein.

IN WITNESS WHEREOF, the said CITY OF PORTLAND has caused this Lease Agreement to be signed in its corporate name and sealed with its corporate seal by Mark H. Rees, its City Manager, thereunto duly authorized, and DIAMOND COVE HOMEOWNERS ASSOCIATION has caused this Lease Agreement to be signed by Matthew Hoffman, its Director and Operations Officer thereunto duly authorized, as of the day and date first set forth above.

WITNESS:

Lois B. Bean

CITY OF PORTLAND
By: Mark H. Rees
Mark H. Rees
Its City Manager

STATE OF MAINE
CUMBERLAND, ss.

March
February 19, 2014

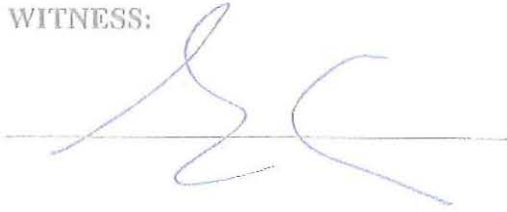
Personally appeared before me the above-named Mark H. Rees, City Manager of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity, and the free act and deed of the City of Portland.

Before me,

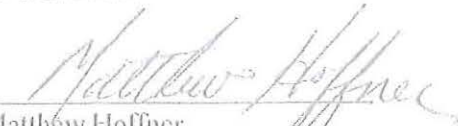
Lois B. Bean
Notary Public/Attorney-at-Law

NOTARY PUBLIC
City of Portland, Maine
My Commission Expires January 19, 2017

WITNESS:



DIAMOND COVE HOMEOWNERS
ASSOCIATION

By: 
Matthew Hoffner
Its Director and Operations Officer

STATE OF MAINE
CUMBERLAND, ss.

February 14, 2014

Personally appeared before me the above-named Matthew Hoffner, Director and Operations Officer of Diamond Cove Homeowners Association, and made oath that the foregoing is his free act and deed and the free act and deed of Diamond Cove Homeowners Association.

Before me,


Notary Public/Attorney-at-Law

JUDE A. CLUFF
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES OCTOBER 27, 2020

Exhibit A

Leased Land for Proposed Transfer Station on Land
of Diamond Cove Homeowners Association

A certain lot or parcel of land located on Great Diamond Island, City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at the southeasterly corner of land now or formerly of Jesse S. and Evelyn C. K. Harriott (Book 25439 Page 248; City of Portland Tax Map Lot 83E-B-7).

Thence N 45° 05' 04" E two hundred seventy-two and ninety-nine hundredths feet (272.99') along the southeasterly boundary line of said land of Harriott to the northeasterly corner of said Harriott land and the southwesterly street line of Wood Side Drive.

Thence S 44° 54' 56" E one hundred seventy-nine and twenty-seven hundredths feet (179.27') along said southwesterly street line of Wood Side Drive to an angle point in said street line.

Thence S 40° 52' 40" W two hundred nineteen and forty-nine hundredths feet (219.49') through land now or formerly of Diamond Cove Homeowners Association (Book 24560 Page 106; City of Portland Tax Map Lot 83E-B-1) to a point in a gravel driveway or roadway and the Point of Beginning. Said Point of Beginning also being located S 60° 23' 34" E two hundred two and seventy-three hundredths feet (202.73') from said southeasterly corner of said land now or formerly of Harriott.

Thence continuing through said land now or formerly of said Diamond Cove Homeowners Association by the following courses and distances:

S 6° 20' 18" E two hundred twenty-nine and zero hundredths feet (229.00') to a point;

S 43° 24' 45" W one hundred eight and zero hundredths feet (108.00') to a point;

S 84° 09' 35" W one hundred sixty-six and zero hundredths feet (166.00') to a point;

N 4° 24' 42" W one hundred sixty-one and fifty hundredths feet (161.50') to a point;

N 30° 03' 59" E one hundred forty and fifty hundredths feet (140.50') to a point in a gravel driveway or roadway, said point being located S 8° 09' 38" E one hundred forty-one and ninety-two hundredths feet (141.92') from said southeasterly corner of said land now or formerly of Harriott;

S 31° 26' 26" E forty-six and fifty hundredths feet (46.50') to a point in a gravel driveway or roadway;

S 74° 03' 49" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 81° 25' 21" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 39° 34' 33" E one hundred nine and zero hundredths feet (109.00') to the Point of Beginning.

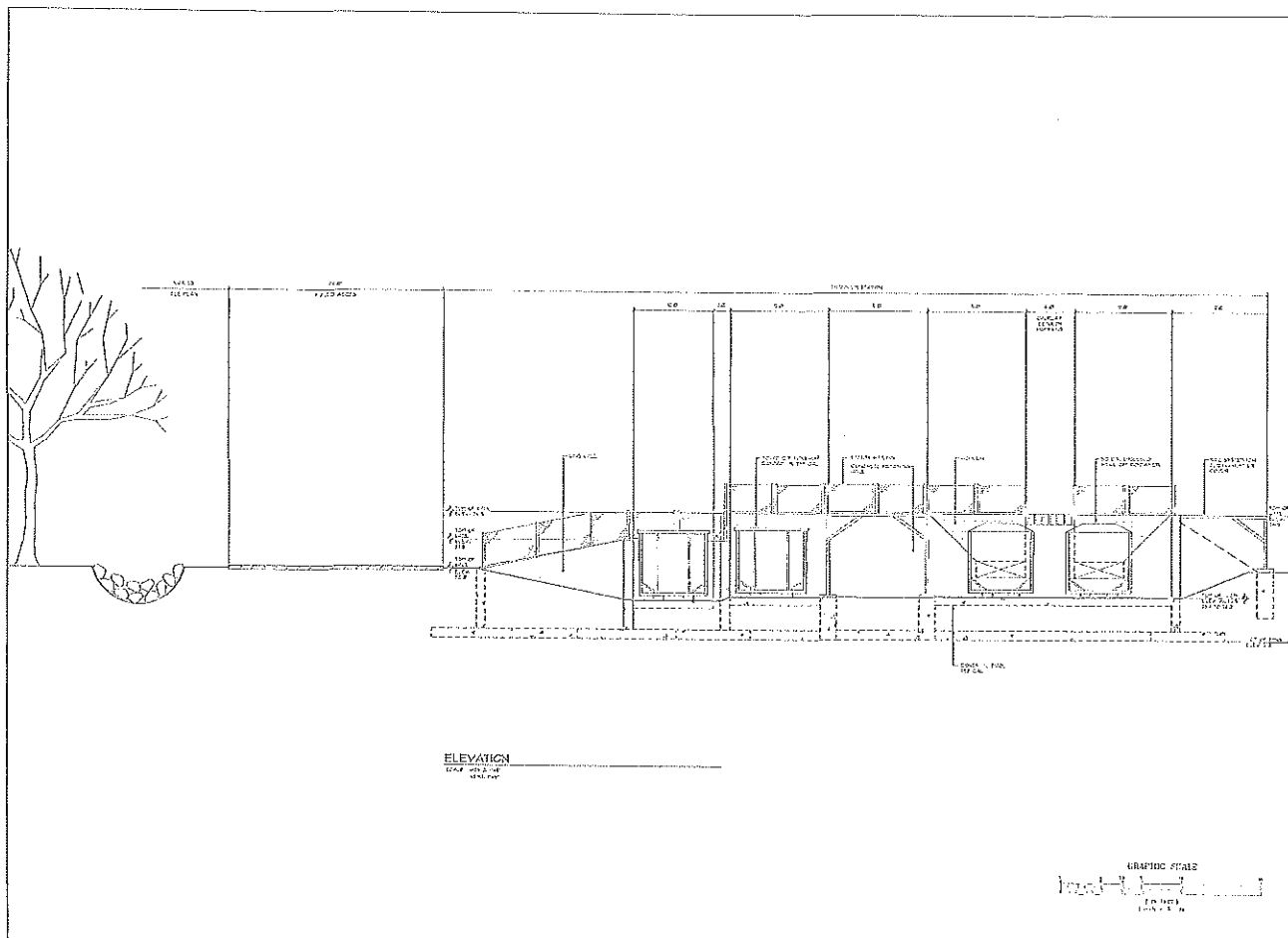
Said lot of land containing 35,050 square feet (1.3 acres), more or less.

Bearings herein are referenced to Grid North. All deed book numbers refer to the Cumberland County Registry of Deeds.

Reference is made to a plan entitled "Proposed Transfer Station Site -- Lease Limit Boundary Plan, Woodside Drive, Diamond Cove, Great Diamond Island, Portland, Maine", dated September 4, 2013, on file in the City Engineer's Archives, Department of Public Services, 55 Portland Street, Portland, Maine.

(Description by City of Portland, William G. Scott, P.L.S. 2239, September 4, 2013)

Exhibit B, page 1 of 2



NOT FOR
CONSTRUCTION

PROCESS
PRINT

DATE	10/1/01
BY	10/1/01
CHECKED	10/1/01
APPROVED	10/1/01
PROJECT	10/1/01
LOCATION	10/1/01
SCALE	10/1/01
PROJECT NO.	10/1/01
DATE	10/1/01
BY	10/1/01
CHECKED	10/1/01
APPROVED	10/1/01
PROJECT	10/1/01
LOCATION	10/1/01
SCALE	10/1/01
PROJECT NO.	10/1/01

SEAGO
SPECIALTY ENGINEERING
1000 N. 10TH AVE.
SUITE 100
PORTLAND, OR 97227
503.255.1234
WWW.SEAGOENGINEERS.COM

FRONT ELEVATION
GREAT DIAMOND ISLAND TRANSFER AND
RECYCLING FACILITY
PORTLAND, OR
CITY OF PORTLAND
JULY 2001
SHEET 6 OF 8

Exhibit C

SPECIAL RULES REGARDING PARKING AND ANTI-IDLING POLICIES FOR USE OF THE BARGE LANDING OWNED BY DIAMOND COVE HOMEOWNERS ASSOCIATION

Note: Exceptions to the following rules will be made for emergency vehicles and/or emergency situations. These rules do not supersede other DCHA policies pertaining to the barge landing that are now in effect or that may be implemented in the future by the DCHA.

Parking and Loading/Off-loading of Vehicles:

Vehicles may be parked temporarily only in the following permitted parking area prior to and following a scheduled barge delivery:

On the cement pad located to the east of the barge landing on Wood Side Drive, between the hours of 9:00 a.m. to 5:00 p.m. only.

All vehicle operators shall comply with the vehicle anti-idling policy that is used by the City of Portland for its own vehicles.

Days/Hours of Operation:

- Days of operation for City vehicles will be Monday through Saturday only.
- Days of operation for other non-DCHA vehicles (i.e., vehicles servicing the public side of the Island) will be Monday through Friday only.
- Hours of operation for City vehicles and other non-DCHA vehicles will be from 7:00 a.m. to 8:00 p.m. Monday-Friday and 7:00 a.m. to 6:00 p.m. on Saturday.
- DCHA vehicles (i.e., vehicles servicing DCHA property or property of DCHA members) are not subject to these hours and days of operations restrictions.

Reports of Non-Compliance:

Any reports of non-compliance of these rules shall be reported to the City of Portland's Island and Neighborhood Liaison, who shall provide notice of any or all said reports to the DCHA.

The DCHA reserves the right to revoke permission to use the barge landing from non-DCHA vehicles or any operator thereof deemed to be in violation of any of these rules.

Phone: 207-892-6562



SOUTHERN MAINE FORESTRY SERVICES, INC.

P.O. Box 910 • North Windham, Maine 04062

Addendum to Forest Management Plan

for

Old Growth Stand

Diamond Cove Home Owners Association

Great Diamond Island

Portland, Maine

Prepared by:

A handwritten signature in dark ink, appearing to read "Rene D. Noel, Jr.", is written over a horizontal line.

Rene D. Noel, Jr. ACF

Maine Licensed Forester

December 12, 2013

Purpose

I have been engaged to:

1. More accurately locate the bounds of the old growth stand and mark edge of this stand.
2. Assess the impact of the hemlock woolly adelgid (*Adelges tsugae*) on the Hemlocks within the stand.
3. Identify those trees which pose potential hazards to life or property should they fall.
4. Identify those hemlocks in suitable condition so that treatment with an insecticide will extend their lives.
5. Estimate scope of work needed to mitigate fire danger and aesthetic impact of the loss of hemlock from the stands.
6. Address the proposed trash transfer station impact on the old growth stand.

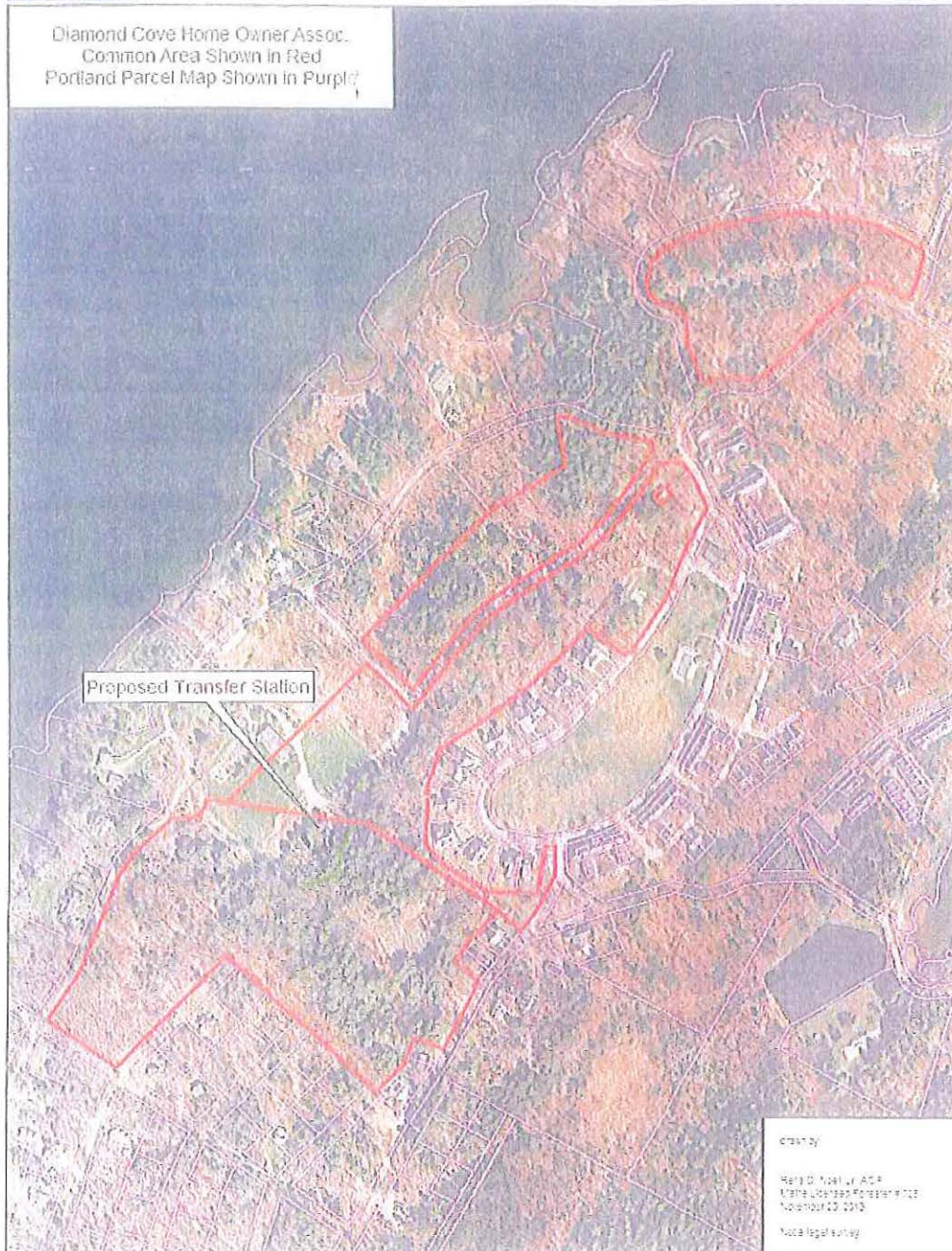
Field Work

Using a handheld GPS receiver (Delorme Earthmate PN-60) data was collected to map the edge of the old growth stand. To do this the stand was perambulated and pink plastic ribbon was hung to mark the edge of the stand. I recommend that boundary be marked permanently. Painting boundary trees, signs or posts and signs are various options. Also gathered was GPS locations of trees that were judged to be potential hazards. These were marked with orange plastic flagging should last a couple of years but they should be marked with paint if they are not to be felled soon. Finally hemlocks that were in locations that were significant to the aesthetics of the area and judged to be in suitable condition that insecticide treatment would allow them to retain vigor were identified. Separate individual stams were located by GPS and marked with blue flagging. Small groves of trees around the tennis courts and along Diamond Avenue are identified solely on the included map.

Report

The forest management plan prepared in 1989 gives an excellent description of the stand, soils, terrain, and other physical features. That work has not been recreated in this report. There has been little change in the forest other than a small amount of wind damage and other natural mortality. The hemlock woolly adelgid infestation and its effect is the primary change in forest conditions.

Diamond Cove Home Owner Assoc.
Common Area Shown in Red
Portland Parcel Map Shown in Purple



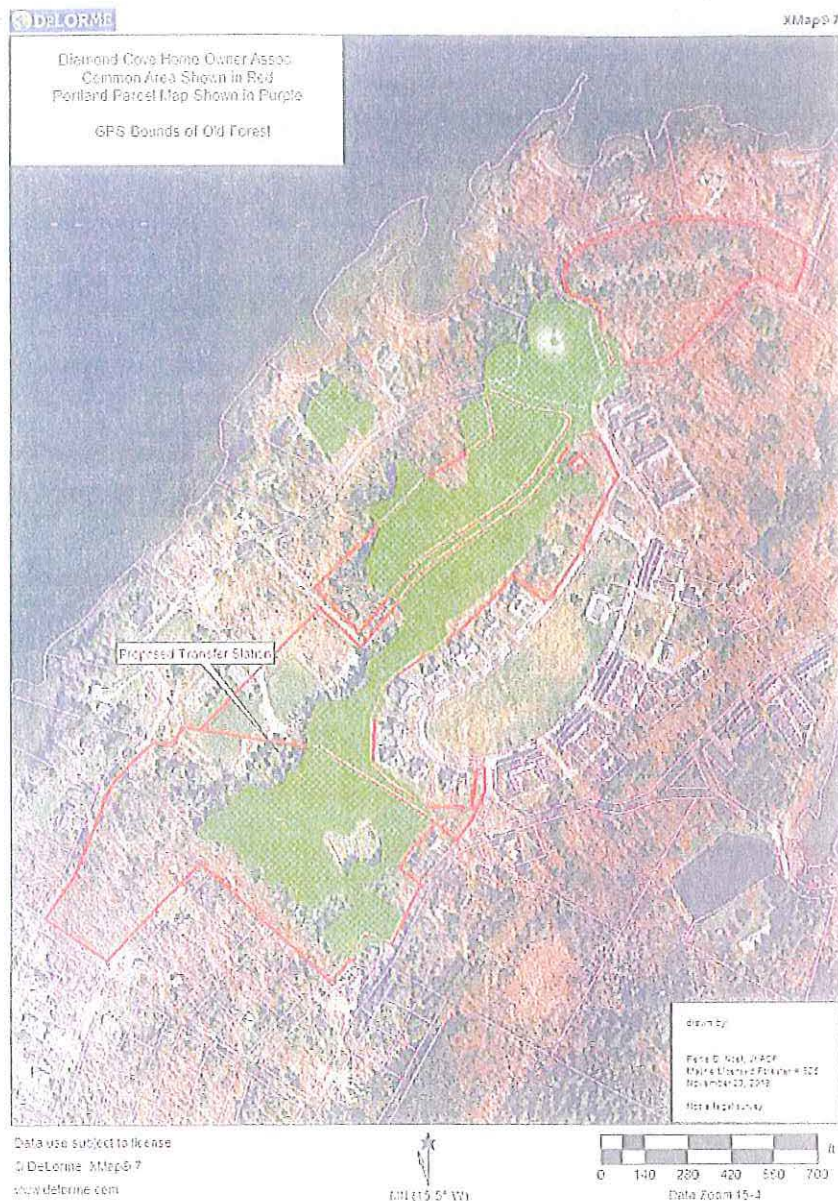
Created by
Rene D. Noel, Jr. ACS
Mapa User/Map Properties
November 22, 2013
No data legend

Data use subject to license.

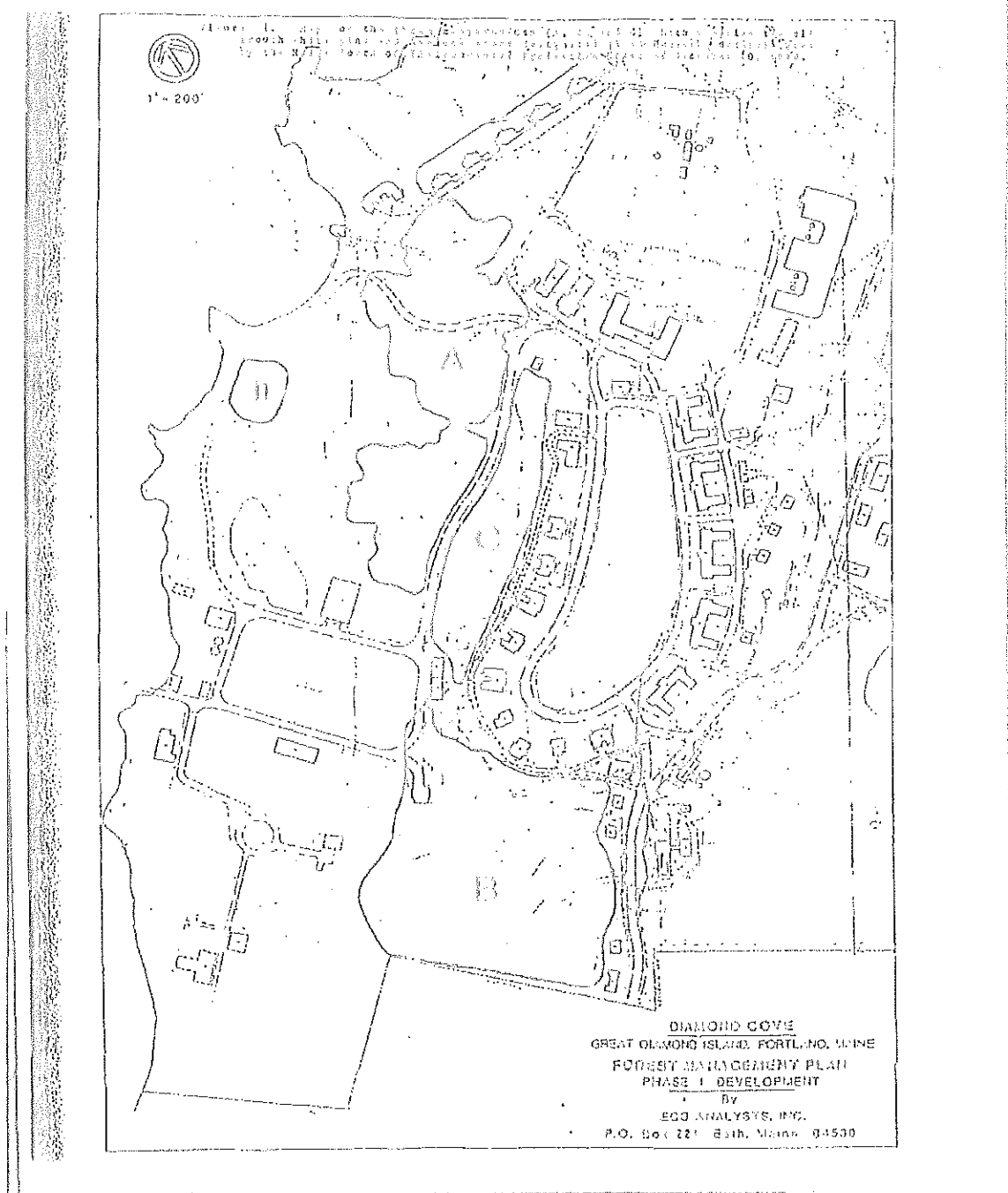
© DeLorme, XMap 9.7.

www.delorme.com

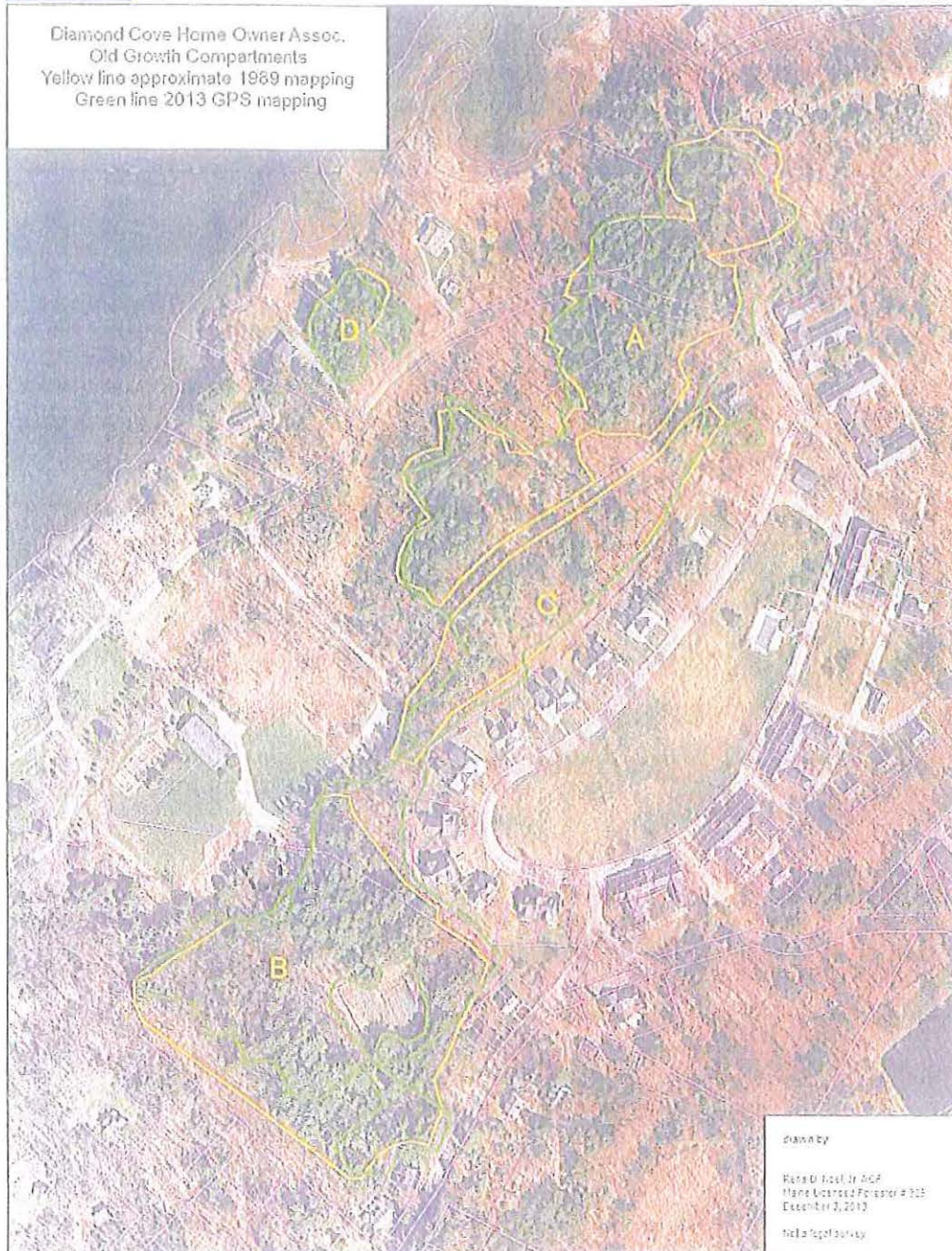




This area totals 15.58 acres and is a mapping of my judgement of the old growth stands boundary to the drip edge of the crowns of the trees identifying the edge of the stand. This is the accepted definition of a stand boundary. The old growth was determined by me based on size, branching, stem and bark characteristics which indicate old age for the various species. It contains some area in gravel roads which is consistent with the 1989 map. The acreage stated in 1989 was 17.43 acres and this includes a 35 foot buffer where the old growth is bordered by younger forest.

[illegible]

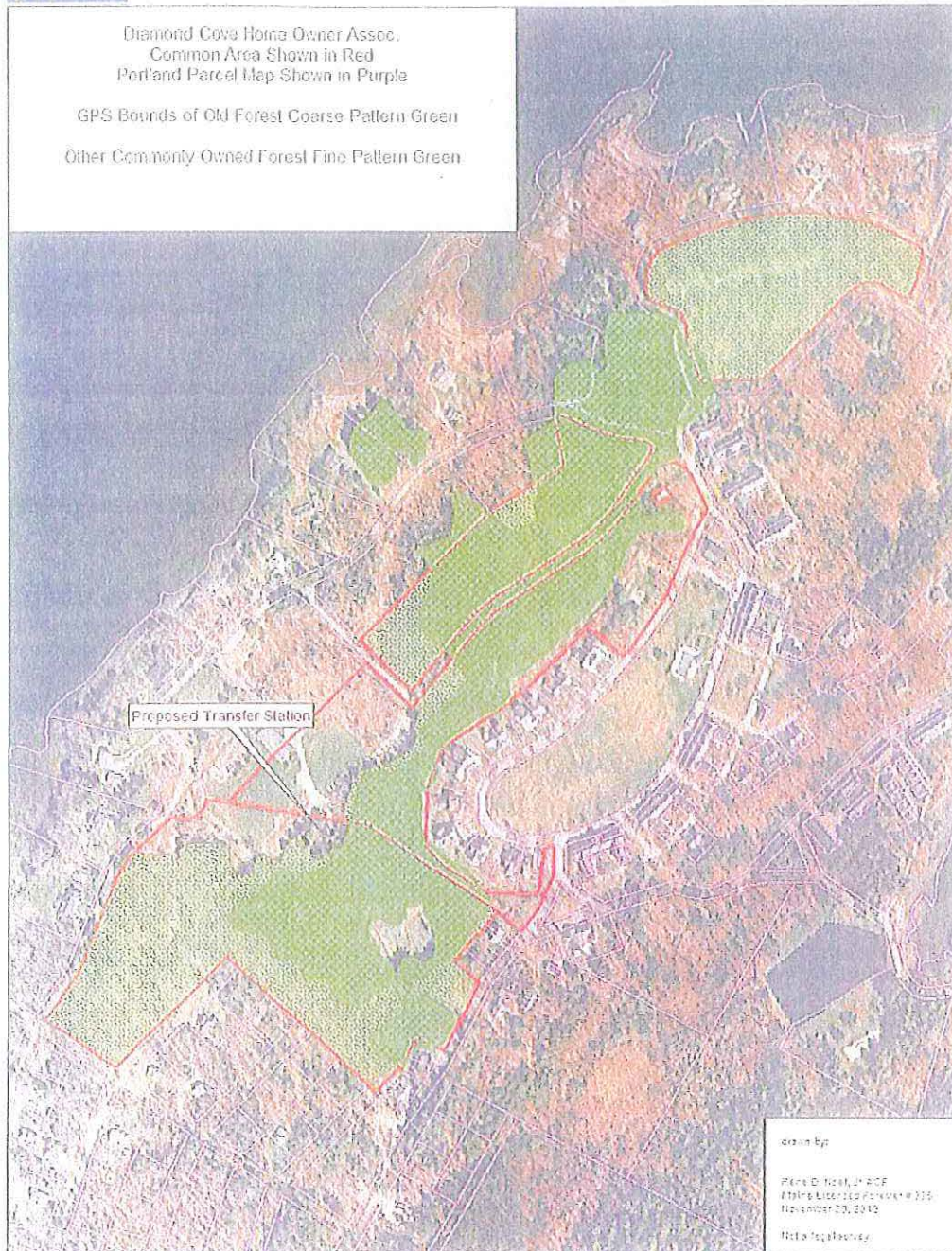
Diamond Cove Home Owner Assoc.
Old Growth Compartments
Yellow line approximate 1989 mapping
Green line 2013 GPS mapping



Data use subject to license
© DeLorme XMap97
www.delorme.com

★
MN (15.5° W)

0 100 200 300 400 500 ft
Data Zoom 16.0



Data use subject to license

© DeLorme XMap® 7

www.delorme.com

MI (15.5° W)

0 140 280 420 560 700 ft
Data Zoom 15.1

Damage by Hemlock Wooty Adelgid

All of the hemlock are showing signs of damage from adelgid feeding. I would estimate that on the average, the hemlock have about 50% of normal foliage density. Hemlock is a significant component of Compartment A, (39.9%), Compartment B, (75.3%) and Compartment C, (23.4%) Compartment D (0%). There are also some understory sapling and small pole size hemlock that were not inventoried and are not included in these numbers.

With out insecticide treatment it can be anticipated that mortality of the hemlock will approach 100%. Based on 1989 inventory and my observations there would be about 500 tons of biomass contained in these trees. That would be about 10 tractor trailer loads of material. About a third or 100 tons would be in fine to medium size fuel which is of concern in a wildfire situation.

There is the option of harvesting all the hemlock and removing them from the island.

Hemlock is not particularly valuable as timber. Considering the cost of utilizing this material by shipping it to the mainland and the impact of heavy equipment needed to remove it I do not recommend this option.

The second option is to fell the stems as they die and treat the fine and medium size fuel to make it less flammable. Within 100 feet of any structure I recommend chipping branches and tops with a portable chipper. In areas over 100 feet from buildings branches and tops should be cut up so they lie within a foot or two of the ground. This treatment will hasten their decay and the close proximity to the ground will keep the moisture content up in the fuel making it less flammable.

Current Hazards

Fourteen stems, 3 hardwoods and 13 hemlock were judge as currently being hazardous and located where they could damage people or property should they fail. They are marked with orange flagging. I did not get an estimate from arborists on the cost of dropping and treating these stems.

The three hardwoods are the most difficult to remove. A white birch, a red maple and a large sugar maple located at the eastern edge of Compartment C are all fairly close to residential buildings and are not easy to remove. The large sugar maple is located between two buildings and contains a considerable amount of rot. It will be somewhat of a challenge to remove. The weight of the large limbs indicate they are likely to fall towards the building to the trees north.

The hemlocks are located that they can likely be felled away from improvements.

I did not get estimates from arborists on the cost of removing these stems but I would estimate a mainland cost in the \$5,000 to \$10,000 range. My experience with transporting men and equipment is it adds significantly to the cost.

Future Mortality

Based on the inventory in the 1989 plan it appears there are 250 large hemlock in the three compartments. I have identified approximately 99 that can be treated and their lives extended for as long as the association is willing to continue treatment. These were either marked with blue flagging (individual stems) or are located in small groves shown on included map. That leaves approximately 150 trees that are likely to die in the next 5 to 10 years if adelgid feeding damage remains at current levels. Or in other words there will be about 20 trees per year that will need to be dropped, limbed and limbs cut up or chipped.

Trees that are not near buildings or other improvements can be dropped by a professional logger limbed and slash treated less expensively than by a licensed arborist. I would estimate the cost for this sort of work to be about \$100 per tree plus transport cost.

Trees near buildings and improvements should be taken down by a licensed arborist who is skilled and insured for in this work. A two man arborist crew with truck and chipper is being billed in the \$300 per hour range. I would estimate they can fell and chip branches from two to four trees per day.

I recommend the Association budget an amount annually to do a certain amount of this work. Arborists' slow season is usually winter and this is the most suitable time to do this sort of work in this community. It may be possible to negotiate some discount from regular fees with a long term contract.

Replanting

Where the hemlock is in decline more light is reaching the forest floor. Seedlings and saplings are already responding to this increase light. In many areas this natural reseedling will replace the forest. In those areas that this does not occur or where it is destroyed during felling and fuel reduction activities of dying hemlock I recommend planting white pine and red oak. Both are native to the island, grow well in that environment and are trees that are well rooted and wind firm in windy conditions. There are numerous young stems, seedlings and saplings already established. Where and how many replacement trees will be needed will depend on how many are destroyed in the felling process. Where sizable areas (500 sq. ft or more of open ground is my recommendation) of regeneration are destroyed I recommend planting at the spacing described. There is no ratio between trees cut and trees planted.

I recommend seedlings be planted spaced about twelve feet apart. The oak should be protected with a five or six foot tree shelter to assure they grow above a height that will be browsed by deer. Large seedlings or transplants are recommended as these will more quickly grow out of reach of deer. Four or five year old pine transplants and oak seedlings a minimum of 24" tall are recommended. Depending on quantity, this size stock is available for \$3.00 to \$10.00 per seedling.

Invasive Plants

The plant community on the island includes a large number of invasive species. Honeysuckle, bittersweet, barberry and Japanese knotweed are those noted which are likely invade disturbed forested areas. These species are very aggressive and have the potential to dominate a site preventing native vegetation from reestablishing itself. Controlling these species is difficult. It is possible to control small infestations by uprooting the plants. However, such mechanical control is labor intensive and needs to be repeated annually to remove sprouts from broken roots and new seedlings. Herbicides are much more efficient. Glyphosate the active chemical in Roundup brand yard products will control all of these. The woody species can be controlled with either a foliar application later in the growing season or by treating the surface of cut stumps within a day or two of the stems being cut. Japanese knotweed is easiest to treat with a foliar application. Ideally this should be done at the time of flowering. Stems are hollow and stems can be cut and treated by pouring herbicide into the hollow stem but this is very time consuming on all but smallest infestations.

Managing Fire Risk

Risk of wild fire is best controlled by controlling fuel. To begin any flammable materials that collect around buildings should be removed. Porches, decks and other attached objects as well as gutters, roof valleys and other places where debris collects should have leaves and other fine fuels removed. Ideally the areas where this material collects should be screened to prevent these build ups.

Away from the building concentric rings of treatment should be applied. Nearest the building should have plant material and landscaping which is fire resistant such as green lawn, gravel or pavement. Shrubs should not be planted so they contact the building and species which are less likely to burn (hardwoods species in general) should be considered. Continuous stands of vegetation that could carry a fire should be avoided. This ring is typically the area immediately around the house lawn and other landscaped features. The next ring is more natural vegetation but in which fine fuel is not allowed to accumulate. Nor should dense stands of young stems be allowed to grow. Park like comes to mind with well space trees and understory plants and little brush or other fine flammable fuels. Typically 75 feet is recommended for this ring. The outer ring is the natural forest. Large trees do not easily burn. It takes a ladder of fuel from the ground to the crowns of large trees to ignite them. Controlling fire danger means controlling this fuel. The litter and duff layer of organic material is flammable but being on the ground maintains a fairly high moisture content and slower burning. Dead limbs and branches and small seedlings and saplings particularly softwoods are the most common fast fuels in a forest. Chipping or lopping dead material so it lays within a foot or so of the ground will hasten its decay and place it so it maintains a high moisture content. Seedlings and saplings should be spaced so there is not a continuous stand. Individual stems and small groups separated from each other are ideal. As these grow lower limbs can be pruned until the stem is free of limbs for 6 or 8 feet.

My fire training occurred in a much drier climate than Maine but I believe the guidelines would be applicable to an island situation. In that climate it was recommended that a fire resistant forest be maintain out at least two tree lengths out from any structures or improvements. In this case that means about 150 feet back from anything that should be protected from fire.

Following these recommendations does not remove all fire danger. It should, however, slow the advance of a wildfire giving time for the arrival of men and equipment that will suppress the fire.

Diamond Cove Homeowners Assoc.
Location of Hazardous Trees
Map 1



drawn by:

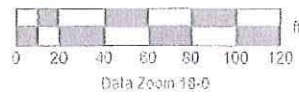
Rene D. Noel, Jr. ACF
Maine Licensed Forester #122
November 20, 2013

Not a legal survey

Data use subject to license.

© Delorme XMap® 7

www.delorme.com



Diamond Cove Home Owner Assoc.
Location of Hazardous Trees
Map 2



Data use subject to license
© DeLorme XMap® 7
www.delorme.com

North Arrow
NAD 83 (11.5' W)

0 20 40 60 80 100 120 ft
Data Zoom 18-0

Insecticide Treatment

The forest between McKinley Court and West Side Drive and west of Diamond Avenue and around the tennis court have 99 hemlocks that contribute greatly to the forest of that residential area. Systemic insecticides containing the active ingredient imidacloprid are effective in controlling the insect for a number of years following application. Some research has shown treatments every three or four years may be effective. Other products are in development/label phases and current product recommendations should be checked when treatments are planned.

This sort of treatment is fairly low tech. Backpack sprayers are used to either apply the chemicals to the ground or stem or granules are spread on the ground. It is necessary for the tree to absorb the chemical and translocate it to the needles. I estimate it would take a two man crew a full day to do the treatment. Depending on the cost of chemical at the time I estimate the cost of treatment to be in the \$2,000 range.

Diamond Cove Homeowners Assoc.
Location of Treatable Hemlock



drawn by:

Wendy D. Host, Jr. GCF
Maine Licensed Forester #1118
November 20, 2013
Not a legal survey

Data use subject to license

© DeLorme, XMap® 7

www.delorme.com

LN1 (15.5' W)

0 40 80 120 160 200 240 280 ft
Data Zoom 18.7

Trash Transfer Station

Most of the proposed site is in an area which appears to have not been forested 24-27 years ago when the original work for the forest management plan was undertaken. However, one corner will encroach on the old growth stand and will require the removal of one large hemlock tree. This tree is not in good condition because of adelgid feeding. As I envision the proposed construction work less than 500 square feet within the old growth stand will need to be disturbed. The effect on the stand will not be noticeable. I suggest as a mitigation that buffer area to the west be expanded by a similar area. There are some large hardwood stems in this area that are 40 or 50 years younger than the oldest trees. With the anticipated loss of the hemlock due to adelgid damage these will be a natural expansion of a stand with old growth characteristics.

Summary of Recommendations/Findings:

- Use of new technology (GPS mapping) has enabled a more precise delineation of the Old Growth Forests first identified in 1989 plan (page 2)
- trees identified and marked- establish tree drip line as the exact edge on all Old Growth trees along the border of each compartment (page 4)
- Woolly adelgid damage to Old Growth hemlocks evaluated
 - Certain trees that pose a hazard to life or property marked for removal (page 8)
 - Certain trees with enough vitality remaining to benefit from insecticide application marked (page 14)
- Recommendation for DCHIA to create an ongoing yearly budget to deal with the eventual death and removal of infected hemlocks (page 9)
- Replanting recommendations made for certain areas of the Old Growth stand using native species (page 9)
- Recommendations made for the proper cutting/removal/chipping of damaged/dead trees within the stand to mitigate forest fire risk (pages 8-9)
- Recommendation on limb trimming and removal of small saplings as part of good management practices (page 10)
- Recommendations on insecticide application to save viable hemlocks (page 14)
- Minimal impact to Old Growth Stand (Compartment B) due to proposed construction of trash transfer station
 - 1 infested hemlock should be removed (page 16)
 - Add 500 square feet of area to the west of Compartment B to offset any disturbance and harmonize existing Old Growth area with large hardwoods within this new area (page 16)





March 16, 2015

Ms. Jean Fraser
City of Portland Planning Department
City Hall
Congress St.
Portland, ME 04101
JF@PortlandMaine.gov

Dear Jean,

As the president of the Diamond Cove Homeowners Association (DCHA), I wanted to write to you in advance of the Planning meeting on March 24th to clarify three points that have been brought up in preliminary meetings.

First, this transfer station project has been in development for over 5 years. During that time, the project was reviewed with the homeowner members at every annual meeting and through the minutes of monthly board meetings. The lease negotiation with the City took over 18 months as we tried to address all the concerns raised by the board and residents who participated in the discussions. Last summer, we staked out the exact area of the lease with tape and again brought up the project at the annual meeting asking all residents to walk the area and bring forward any concerns. The only concerns brought by a homeowner (abutter) was about the landscaping plan and we walked the property with him and the site engineer and developed a plan that was satisfactory to him and his line of sight. Other than questions at the annual meeting, no other concerns have been brought to me or other board members. Having resolved all the issues raised, we signed the lease last year and the city council voted to authorize the city manager to do the same.

The association has spent thousands of dollars in legal fees to ensure we have the protection we need for the next 99 years and there has been full disclosure and transparency throughout the process. Obviously, in a community like ours, some people choose to ignore annual meetings, board minutes and newsletters (all of which are posted on the website) and may still have questions regarding the project. I would encourage any resident with questions to call me so we can address those concerns. Again, to date there have been no calls asking for more information. The general sentiment within the community is that this is a good deal for DC, Great Diamond Island and Little Diamond Island. It solves

(for 99 years) the solid waste disposal challenges on our two islands and such resolutions can only enhance property values.

Secondly, we agree with the city's engineer that it makes sense to pave the gravel road and area directly in front of the transfer station. It will reduce dust and make transport of the trash off the island easier for all. We have agreed with the city to allow them to pave the entire section of the gravel road directly in front of the transfer station. While the 1.3-acre leased "Premises" only extends through half of the "road," the proposed paving here is consistent with the Preliminary Site Plan attached to our Lease Agreement, and therefore is consistent with the terms of the Lease Agreement.

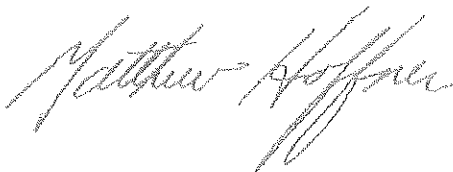
Finally, the storm water management for this area will be controlled by a storm water collection system managed by the city although some of the area that feeds that system will be from outside the lease area. Again, we both agree this makes sense and we have no issues with the site plan developed by the engineers or the city's long term management of that system.

This project continues to have the unanimous support of the 7 board directors and a vast majority of the residents of Diamond Cove. We would ask the Planning department and the City Council for their prompt approval of the Conditional Zoning Amendment so that work can begin this fall.

Please let me know if you have any additional questions.

Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Matthew Hoffner". The signature is fluid and cursive, with the first name "Matthew" written in a larger, more prominent script than the last name "Hoffner".

Matthew Hoffner
President- DCHA Board of Directors

cc: Michael Bobinsky- Public Works Director City of Portland
Owens McCullough- Sebago Technics Engineering
Anthony Calcagni- Verrill Dana
Roger Shoemaker- Foreside Management Company



March 18, 2015
09405

Ms. Jean Fraser, Planner
City of Portland
389 Congress Street
Portland, ME 04101

Application for Conditional Zoning Amendment
Municipal Solid Waste Transfer Station, Great Diamond Island for City of Portland

Dear Ms. Fraser:

Thank you for sending along the public comments received by the City Planning Department for the Great Diamond Island transfer station project. We have prepared the following supplanted information in response to the public comments for staff and Planning Board consideration.

1. The project includes a small modification to the Old Growth area (approximately 500 square feet) as detailed in the recent update to the 1985 forest management plan. During 2013, field investigations including retention of licensed forester, coordination with the state Forest Service and City Arborist was undertaken as part of the transfer station site planning. The result of this effort was a December 12, 2013 Forest Management Plan Amendment prepared by Rene Noel, Jr., licensed forester. The Forest Management Plan concluded the project will have minimal impact to the Old Growth Stand involving approximately 500 square feet at the fringe of the mapped Old Growth Area. As part of the project, a 1,000 square foot mitigation area will be designated to increase the Old Growth Stand in the area immediately adjacent to the project site. The Forest Management Plan and proposed modifications were endorsement by the Maine Department of Environmental Protection (MDEP) as described in the November 5, 2015 permit approval.
2. The land area dedicated to the transfer station is approximately 1.25 acres in size. The facility has been design to minimize the development area and associated surrounding by integrating in the natural topography for the elevational difference required for a transfer facility. The 1.25 acre area was selected to accommodate the develop area together with land contouring necessary for an elevated wall and drop-off area and to provide landscaped buffering and new planting within the project area. The lease area was then delineated and approved by DCHA and the Portland City Council. The City and DCHA have strived to create the smallest possible footprint that will accomplish the operational needs. The proposed area was staked and marked during the summer of 2014 so that DCHA residents could review the footprint and raise any concerns about the location. There was no feedback received.

3. To the best of my knowledge, this is the first time the City has leased private property in a gated community for a transfer station. It is important to recognize the selection of this site was the culmination of several years of work to identify a suitable location that is proximate to the barge landing and capable of servicing the solid waste needs of the two Islands. The City is appreciative for DCHA's corporation and willingness to agree to a location that will allow for this important public service.
4. The transfer station is required to include site specific operations such as buffering, monitoring and protection against deleterious noise and smells. The project is currently under review by the Maine Department of Environmental Protection who regulates solid waste transfer and recycling facilities. As such, the operations are required to be compliant with these regulations. Troy Moon of the City is responsible for the city solid waste management program and will be directly involved with monitoring the facility activities.
5. Operationally, it is anticipated that the unloading of solid waste materials will be completed by City Public Services personnel or DCHA staff generally utilizing 1 Ton trucks. Since the facility will not be open to the general public, operational times will vary depending on curbside pick-up schedules and seasonal fluctuations in usage. Section 5(G) of the lease agreement with DCHA states "that under the normal course of operation, there will be no more than four to six (4-6) deliveries of waste/recycling per week by the CITY to the transfer station facility and, during summer months, at least one transfer of waste/recycling per week from the two transfer station hopper/compactor units off the island, and the two separate transfer station roll-off containers will be removed when full and then emptied and returned, all by appropriately sized vehicles."
6. The proposed transfer station will have some limited parking to accommodate operational vehicles. It is not the intent of the City to use the site for storage of non-transfer station related equipment or materials. In addition, the lease agreement with DCHA includes the following restrictions.
 - Sec. 3 (B): "There shall be no parking on the PREMISES unless related or incident to the trash processing and recycling, and then not overnight. There shall be no staging or storage of equipment on the PREMISES unless related or incident to the trash processing and recycling, and then only very short term."
 - Sec. 9(B): "CITY covenants and agrees to observe the conditions imposed by its proposed settlement in the litigation involving LESSOR and the Diamond Cove Barge Landing, including the conditions listed on the attached Exhibit C; in addition, CITY covenants and agrees not to park any vehicles overnight on the Diamond Cove ('Fort') one-half of Great Diamond Island, except in emergency circumstances. CITY further covenants and agrees to observe any conditions imposed by the DEP with respect to use of the Diamond Cove Barge Landing and adjacent roadways."
 - Exhibit C contains specific parking and anti-idling rules that must be complied with.

7. There will not be direct access to the transfer station through a public road. The project will be located within the DCHA portion of the Island. As previously stated, the transfer station will not be open to the general public and is intended as a point of transfer utilized by the City and DCHA operations staff.

We look forward to working with staff, the Planning Board and Council to amend the DCHA Contract Zoning Amendment for this important and needed public services project. Please feel free to contact me if I can be of additional assistance.

Sincerely,

SEBAGO TECHNICS, INC.



Owens A. McCullough, P.E.; LEED A.P.
Vice President of Engineering and Project Development

OAM:jag
Enc.

cc: Michael Bobinsky & Troy Moon, City of Portland Department of Public Services
Matthew Hoffner, DCHA

Draft 3.4.2015 from DCHA

**AMENDMENT TO CONDITIONAL ZONE AGREEMENT
REFERENCED IN ORDER 42-84/85
RE: CONTRACT FOR REZONING FOR PROPERTY
IN THE VICINITY OF
DIAMOND COVE/GREAT DIAMOND ISLAND**

WHEREAS, on July 15, 1985, the Portland City Council approved a Conditional Rezoning of certain property located on Great Diamond Island, formerly known as Fort McKinley and referred to as the "Premises" in said Conditional Rezoning; and

WHEREAS, the Conditional Rezoning has since been amended pursuant to amendments dated August 16, 2004, September 15, 2008, and February 22, 2012 (hereinafter, as amended, the "CZA"); and

WHEREAS, on April 17, 2014, the City of Portland entered into a Lease Agreement (later amended on September 30, 2014) with the Diamond Cove Homeowners Association pursuant to which the City has agreed to lease space on the Premises and install a solid waste transfer and recycling station in order to more efficiently handle solid waste management on both Great Diamond Island and Little Diamond Island (hereinafter, the "Lease Agreement"); and

WHEREAS, due to constraints the Premises, the only appropriate location for the transfer station is within a portion of the Premises located as shown on Attachment A and previously designated as "Dedicated Open Space" which, under the CZA may not be developed;

WHEREAS, pursuant to the Lease Agreement, on _____, the City of Portland's Director of Public Services filed an application to amend the CZA and to modify the boundary of the Dedicated Open Space in order to allow the construction, maintenance and operation of the transfer station;

WHEREAS, on _____, the Portland Planning Board recommended the approval of the amendment to the CZA; and

WHEREAS, the City council hereby finds and declares that said amendments to the Conditional Rezoning are pursuant to and consistent with the City's Comprehensive Plan as well as with existing and permitted uses in the CZA;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Portland, Maine, in the Council assembled as follows:

Paragraph 1 of the CZA in Order 42-84/85, as further amended in Orders 33-04/05, 55-03/09, and 114-11/12, is amended as follows:

1. Development limited. The development, use and occupancy of the Premises shall be limited to one hundred thirty-four (134) dwelling units and other permitted uses, and uses accessory thereto. Except for the reconstruction, renovation and repair of existing buildings and structures, ~~and the construction of minor additions and improvements thereto, and the construction of a solid waste transfer and recycling station in a form substantially similar to that depicted in the plan attached hereto as~~ Attachment B, there shall be no construction or development of any new principal building or structure on the Premises. Except as otherwise specified herein, all portions of the Premises identified on the map attached hereto as open space shall be dedicated and reserved as such in perpetuity.

and, **BE IT FURTHER ORDAINED** that:

The area described in Attachment C, being the premises leased under the Lease Agreement, be removed from the Dedicated Open Space as originally identified in the CZA.

3415

7/15/85

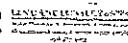
Diamond Cove

GREAT DIAMOND ISLAND.

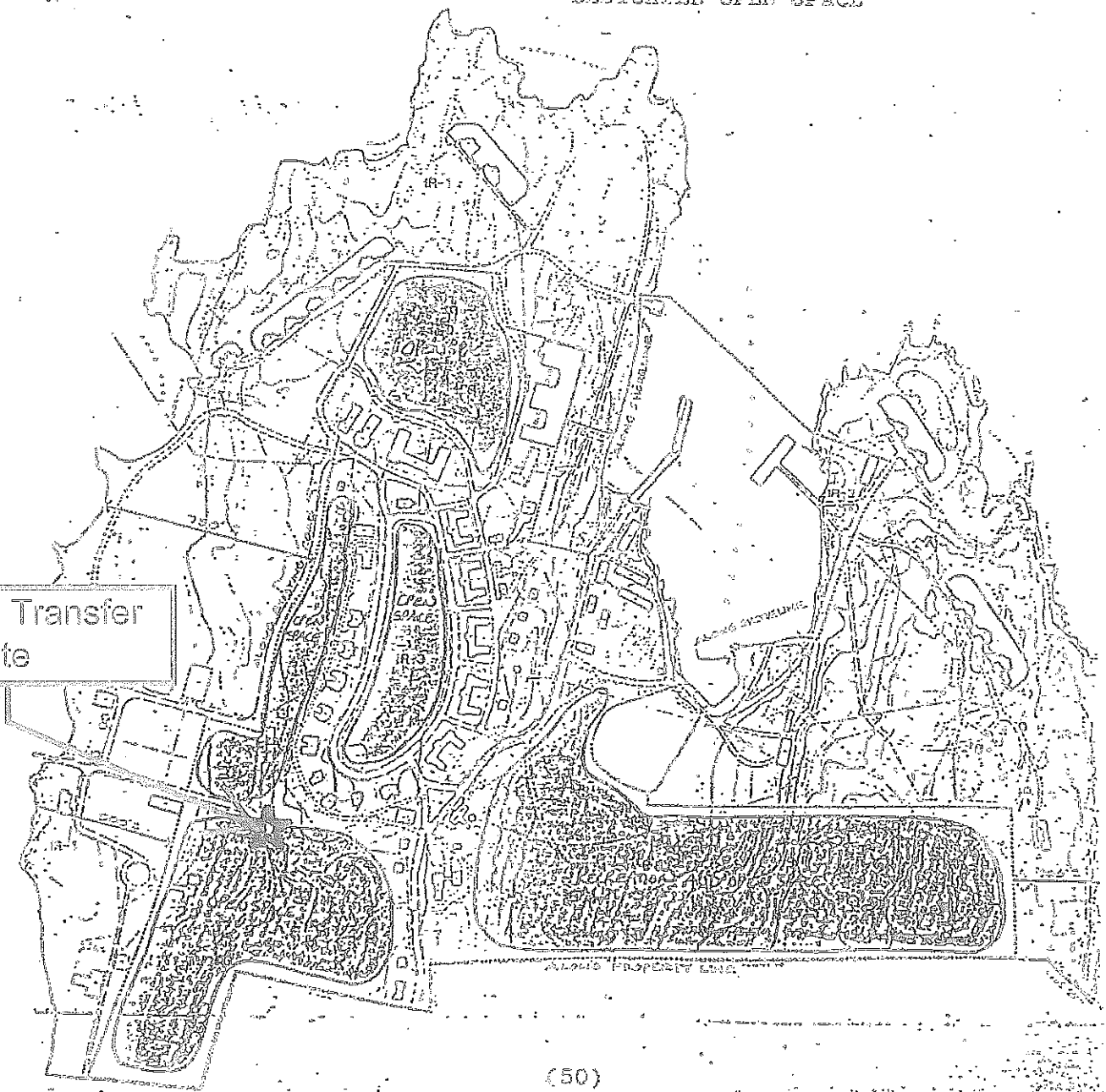
PORTLAND, ME

DEVELOPER : DICTAR ASSOCIATES

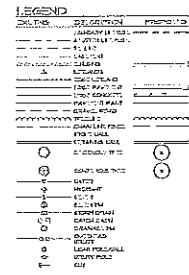
PORTLAND, I

[illegible]

DEDICATED OPEN SPACE



Proposed Transfer Station Site

[illegible]

SITE PLAN GREAT DIAMOND ISLAND TRANSFER AND RECYCLING FACILITY FORTUNE LANE CITY OF PORTLAND EXISTING AND PROPOSED LOTS AND SUBDIVISIONS				DATE: 10/1/84 DRAWN BY: J. J. JENSEN CHECKED BY: J. J. JENSEN SCALE: 1" = 100'		PROJECT: TRANSFER AND RECYCLING FACILITY SHEET NO. 2 OF 3	
LOT 1 1.00 AC. 1.00 AC.	LOT 2 1.00 AC. 1.00 AC.	LOT 3 1.00 AC. 1.00 AC.	LOT 4 1.00 AC. 1.00 AC.	LOT 5 1.00 AC. 1.00 AC.	LOT 6 1.00 AC. 1.00 AC.	LOT 7 1.00 AC. 1.00 AC.	LOT 8 1.00 AC. 1.00 AC.

Exhibit A

Leased Land for Proposed Transfer Station on Land
of Diamond Cove Homeowners Association

A certain lot or parcel of land located on Great Diamond Island, City of Portland, Cumberland County, State of Maine, being more particularly described as follows:

Commencing at the southeasterly corner of land now or formerly of Jesse S. and Evelyn C. K. Harriott (Book 25439 Page 248; City of Portland Tax Map Lot 83B-B-7).

Thence N 45° 05' 04" E two hundred seventy-two and ninety-nine hundredths feet (272.99') along the southeasterly boundary line of said land of Harriott to the northeasterly corner of said Harriott land and the southwesterly street line of Wood Side Drive.

Thence S 44° 54' 56" E one hundred seventy-nine and twenty-seven hundredths feet (179.27') along said southwesterly street line of Wood Side Drive to an angle point in said street line.

Thence S 40° 52' 40" W two hundred nineteen and forty-nine hundredths feet (219.49') through land now or formerly of Diamond Cove Homeowners Association (Book 24560 Page 106; City of Portland Tax Map Lot 83B-B-1) to a point in a gravel driveway or roadway and the Point of Beginning. Said Point of Beginning also being located S 60° 23' 34" E two hundred two and seventy-three hundredths feet (202.73') from said southeasterly corner of said land now or formerly of Harriott.

Thence continuing through said land now or formerly of said Diamond Cove Homeowners Association by the following courses and distances:

S 6° 20' 18" E two hundred twenty-nine and zero hundredths feet (229.00') to a point;

S 43° 24' 45" W one hundred eight and zero hundredths feet (108.00') to a point;

S 84° 09' 35" W one hundred sixty-six and zero hundredths feet (166.00') to a point;

N 4° 24' 42" W one hundred sixty-one and fifty hundredths feet (161.50') to a point;

N 30° 03' 59" E one hundred forty and fifty hundredths feet (140.50') to a point in a gravel driveway or roadway, said point being located S 8° 09' 38" E one hundred forty-one and ninety-two hundredths feet (141.92') from said southeasterly corner of said land now or formerly of Harriott;

S 31° 26' 26" E forty-six and fifty hundredths feet (46.50') to a point in a gravel driveway or roadway;

S 74° 03' 49" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 81° 25' 21" E thirty-two and zero hundredths feet (32.00') to a point in a gravel driveway or roadway;

N 39° 34' 33" E one hundred nine and zero hundredths feet (109.00') to the Point of Beginning.

Said lot of land containing 35,030 square feet (1.3 acres), more or less.

Bearings herein are referenced to Grid North. All deed book numbers refer to the Cumberland County Registry of Deeds.

Reference is made to a plan entitled "Proposed Transfer Station Site – Lease Limit Boundary Plan, Woodside Drive, Diamond Cove, Great Diamond Island, Portland, Maine", dated September 4, 2013, on file in the City Engineer's Archives, Department of Public Services, 55 Portland Street, Portland, Maine.

(Description by City of Portland, William G. Scott, P.L.S. 2239, September 4, 2013)



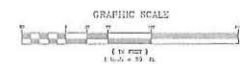
NOTE
THIS PLAN IS NOT TO BE USED FOR LEGAL PURPOSES
ONLY. REFER TO THE 1997 ZONING MAP AND THE
1997 ZONING ORDINANCE FOR THE OFFICIAL ZONING DESIGNATION.

AREA LEGEND



LEGEND

SYMBOL	DESCRIPTION	PROPOSED
	DEDICATED OPEN SPACE	
	PROPOSED OLD GROWTH MITIGATION AREA	
	LIMIT OF OLD GROWTH	
	PROPERTY LINE	
	PROPOSED OLD GROWTH MITIGATION AREA	
	PROPOSED OLD GROWTH MITIGATION AREA	
	PROPOSED OLD GROWTH MITIGATION AREA	
	PROPOSED OLD GROWTH MITIGATION AREA	



NO.	DATE	DESCRIPTION
1	11/24/11	ISSUED FOR PERMITTING
2	11/24/11	ISSUED FOR PERMITTING
3	11/24/11	ISSUED FOR PERMITTING
4	11/24/11	ISSUED FOR PERMITTING
5	11/24/11	ISSUED FOR PERMITTING
6	11/24/11	ISSUED FOR PERMITTING
7	11/24/11	ISSUED FOR PERMITTING
8	11/24/11	ISSUED FOR PERMITTING
9	11/24/11	ISSUED FOR PERMITTING
10	11/24/11	ISSUED FOR PERMITTING



OPEN SPACE REMOVAL DESIGNATION PLAN
GREAT DIAMOND ISLAND TRANSFER AND
RECYCLING FACILITY
PORT OF PORTLAND
11/24/11
SHEET 1 OF 1

3. **PROPORTION** is the ratio of the number of elements in the set to the number of elements in the universal set. It is denoted by $P(A)$ and is calculated as $P(A) = \frac{n(A)}{n(S)}$.

4. **PROBABILITY** is the measure of the likelihood of an event occurring. It is denoted by $P(A)$ and is calculated as $P(A) = \frac{n(A)}{n(S)}$.

5. **PERMUTATION** is the arrangement of objects in a specific order. It is denoted by $P(n, r)$ and is calculated as $P(n, r) = \frac{n!}{(n-r)!}$.

6. **COMBINATION** is the selection of objects without regard to order. It is denoted by $C(n, r)$ and is calculated as $C(n, r) = \frac{n!}{r!(n-r)!}$.

7. **SET THEORY** is the study of sets and their properties. It is denoted by S and is calculated as $S = \{x, y, z, \dots\}$.

8. **LOGIC** is the study of the principles of reasoning. It is denoted by L and is calculated as $L = \{A, B, C, \dots\}$.

9. **STATISTICS** is the study of data and its analysis. It is denoted by T and is calculated as $T = \{x, y, z, \dots\}$.

10. **ALGEBRA** is the study of the properties of numbers and operations. It is denoted by A and is calculated as $A = \{x, y, z, \dots\}$.

11. **CALCULUS** is the study of the properties of functions and their derivatives. It is denoted by C and is calculated as $C = \{x, y, z, \dots\}$.

12. **PHYSICS** is the study of the properties of matter and energy. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

13. **CHEMISTRY** is the study of the properties of matter and its reactions. It is denoted by C and is calculated as $C = \{x, y, z, \dots\}$.

14. **BIOLOGY** is the study of the properties of living organisms. It is denoted by B and is calculated as $B = \{x, y, z, \dots\}$.

15. **MEDICINE** is the study of the properties of the human body and its diseases. It is denoted by M and is calculated as $M = \{x, y, z, \dots\}$.

16. **PSYCHOLOGY** is the study of the properties of the mind and behavior. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

17. **ECONOMICS** is the study of the properties of the economy and its resources. It is denoted by E and is calculated as $E = \{x, y, z, \dots\}$.

18. **POLITICAL SCIENCE** is the study of the properties of government and its institutions. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

19. **LAW** is the study of the properties of the legal system and its rules. It is denoted by L and is calculated as $L = \{x, y, z, \dots\}$.

20. **ARTS** is the study of the properties of the creative and expressive arts. It is denoted by A and is calculated as $A = \{x, y, z, \dots\}$.

21. **RELIGION** is the study of the properties of the spiritual and religious beliefs. It is denoted by R and is calculated as $R = \{x, y, z, \dots\}$.

22. **PHILOSOPHY** is the study of the properties of the human mind and its knowledge. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

23. **SCIENCE** is the study of the properties of the natural world and its laws. It is denoted by S and is calculated as $S = \{x, y, z, \dots\}$.

24. **TECHNOLOGY** is the study of the properties of the human-made world and its innovations. It is denoted by T and is calculated as $T = \{x, y, z, \dots\}$.

25. **ENVIRONMENTAL STUDIES** is the study of the properties of the natural and human-made environments. It is denoted by E and is calculated as $E = \{x, y, z, \dots\}$.

26. **CLIMATE CHANGE** is the study of the properties of the Earth's climate and its changes. It is denoted by C and is calculated as $C = \{x, y, z, \dots\}$.

27. **GLOBAL WARMING** is the study of the properties of the Earth's temperature and its increase. It is denoted by G and is calculated as $G = \{x, y, z, \dots\}$.

28. **RENEWABLE ENERGY** is the study of the properties of the energy sources that can be replenished. It is denoted by R and is calculated as $R = \{x, y, z, \dots\}$.

29. **ARTIFICIAL INTELLIGENCE** is the study of the properties of the machines that can think and learn. It is denoted by A and is calculated as $A = \{x, y, z, \dots\}$.

30. **ROBOTICS** is the study of the properties of the machines that can move and interact with the world. It is denoted by R and is calculated as $R = \{x, y, z, \dots\}$.

31. **SPACE EXPLORATION** is the study of the properties of the outer space and its exploration. It is denoted by S and is calculated as $S = \{x, y, z, \dots\}$.

32. **ASTRONOMY** is the study of the properties of the celestial bodies and their movements. It is denoted by A and is calculated as $A = \{x, y, z, \dots\}$.

33. **COSMOLOGY** is the study of the properties of the universe and its origin. It is denoted by C and is calculated as $C = \{x, y, z, \dots\}$.

34. **PHYSICS** is the study of the properties of the matter and energy and their interactions. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

35. **CHEMISTRY** is the study of the properties of the matter and its chemical reactions. It is denoted by C and is calculated as $C = \{x, y, z, \dots\}$.

36. **BIOLOGY** is the study of the properties of the living organisms and their life processes. It is denoted by B and is calculated as $B = \{x, y, z, \dots\}$.

37. **MEDICINE** is the study of the properties of the human body and its diseases. It is denoted by M and is calculated as $M = \{x, y, z, \dots\}$.

38. **PSYCHOLOGY** is the study of the properties of the mind and behavior. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

39. **ECONOMICS** is the study of the properties of the economy and its resources. It is denoted by E and is calculated as $E = \{x, y, z, \dots\}$.

40. **POLITICAL SCIENCE** is the study of the properties of government and its institutions. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

41. **LAW** is the study of the properties of the legal system and its rules. It is denoted by L and is calculated as $L = \{x, y, z, \dots\}$.

42. **ARTS** is the study of the properties of the creative and expressive arts. It is denoted by A and is calculated as $A = \{x, y, z, \dots\}$.

43. **RELIGION** is the study of the properties of the spiritual and religious beliefs. It is denoted by R and is calculated as $R = \{x, y, z, \dots\}$.

44. **PHILOSOPHY** is the study of the properties of the human mind and its knowledge. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

45. **SCIENCE** is the study of the properties of the natural world and its laws. It is denoted by S and is calculated as $S = \{x, y, z, \dots\}$.

46. **TECHNOLOGY** is the study of the properties of the human-made world and its innovations. It is denoted by T and is calculated as $T = \{x, y, z, \dots\}$.

47. **ENVIRONMENTAL STUDIES** is the study of the properties of the natural and human-made environments. It is denoted by E and is calculated as $E = \{x, y, z, \dots\}$.

48. **CLIMATE CHANGE** is the study of the properties of the Earth's climate and its changes. It is denoted by C and is calculated as $C = \{x, y, z, \dots\}$.

49. **GLOBAL WARMING** is the study of the properties of the Earth's temperature and its increase. It is denoted by G and is calculated as $G = \{x, y, z, \dots\}$.

50. **RENEWABLE ENERGY** is the study of the properties of the energy sources that can be replenished. It is denoted by R and is calculated as $R = \{x, y, z, \dots\}$.

51. **ARTIFICIAL INTELLIGENCE** is the study of the properties of the machines that can think and learn. It is denoted by A and is calculated as $A = \{x, y, z, \dots\}$.

52. **ROBOTICS** is the study of the properties of the machines that can move and interact with the world. It is denoted by R and is calculated as $R = \{x, y, z, \dots\}$.

53. **SPACE EXPLORATION** is the study of the properties of the outer space and its exploration. It is denoted by S and is calculated as $S = \{x, y, z, \dots\}$.

54. **ASTRONOMY** is the study of the properties of the celestial bodies and their movements. It is denoted by A and is calculated as $A = \{x, y, z, \dots\}$.

55. **COSMOLOGY** is the study of the properties of the universe and its origin. It is denoted by C and is calculated as $C = \{x, y, z, \dots\}$.

56. **PHYSICS** is the study of the properties of the matter and energy and their interactions. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

57. **CHEMISTRY** is the study of the properties of the matter and its chemical reactions. It is denoted by C and is calculated as $C = \{x, y, z, \dots\}$.

58. **BIOLOGY** is the study of the properties of the living organisms and their life processes. It is denoted by B and is calculated as $B = \{x, y, z, \dots\}$.

59. **MEDICINE** is the study of the properties of the human body and its diseases. It is denoted by M and is calculated as $M = \{x, y, z, \dots\}$.

60. **PSYCHOLOGY** is the study of the properties of the mind and behavior. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

61. **ECONOMICS** is the study of the properties of the economy and its resources. It is denoted by E and is calculated as $E = \{x, y, z, \dots\}$.

62. **POLITICAL SCIENCE** is the study of the properties of government and its institutions. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

63. **LAW** is the study of the properties of the legal system and its rules. It is denoted by L and is calculated as $L = \{x, y, z, \dots\}$.

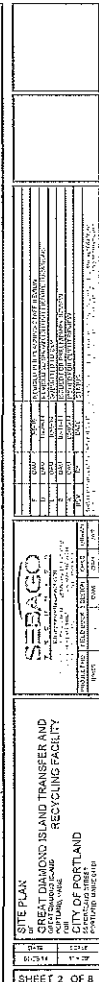
64. **ARTS** is the study of the properties of the creative and expressive arts. It is denoted by A and is calculated as $A = \{x, y, z, \dots\}$.

65. **RELIGION** is the study of the properties of the spiritual and religious beliefs. It is denoted by R and is calculated as $R = \{x, y, z, \dots\}$.

66. **PHILOSOPHY** is the study of the properties of the human mind and its knowledge. It is denoted by P and is calculated as $P = \{x, y, z, \dots\}$.

67. **SCIENCE** is the study of the properties of the natural world and its laws. It is denoted by S and is calculated as $S = \{x, y, z, \dots\}$.

68. **TECH**



City of Portland, Maine

City Manager's Recommended Budget



FY16 Budget

July 1, 2015 – June 30, 2016

**FY2016 BUDGET
CITY MANAGER'S RECOMMENDATION**

TABLE OF CONTENTS

	Page
LETTER OF TRANSMITTAL	1
COMPARATIVE BUDGET PLAN (GENERAL FUND)	5
COMPARATIVE BUDGET PLAN (ENTERPRISE FUNDS)	8
TAX RATE COMPUTATION	9
NON-TAX REVENUE SUMMARY BY DEPARTMENT	10
EXPENDITURE SUMMARY BY CATEGORY	11
TAX LEVY BY BUDGET CATEGORY	12
STAFFING FTE CHANGE SUMMARY	13
STAFFING FTE CHANGE DETAIL	14
APRIL BUDGET CALENDAR	16
MAY BUDGET CALENDAR	17



Executive Department
Sheila-Hill Christian, Acting City Manager

389 Congress Street / Portland, ME 04101 / www.portlandmaine.gov / tel. 207-874-8689 / tty. 207-874-8936 / fax. 207-874-8669

April 6, 2015

To Mayor Brennan and Members of the Portland City Council:

Pursuant to Article VI, Section 5(e) and Article VII, Sections 5 and 6 of the City of Portland Charter, I am hereby submitting the Acting City Manager's Recommended \$221 million FY16 Municipal Operating Budget. As the economic engine for the state of Maine, Portland continues to grow and thrive, and we continue to be recognized nationally for all that we have to offer. Just recently, Cumberland County was recognized as a top county poised for additional growth, and census estimates highlight that Portland's population grew by more than 3%. With more than 44% of residents who have a bachelor degree or higher, our population is highly educated to support future workforce needs. Portland is also benefiting from becoming an international transportation hub for people – with Nova Star ready to begin their second season of ferry service to Yarmouth, Nova Scotia – and cargo shipping, thanks to investment from Eimskip. Our tax base is up as we continue to realize new hospitality investment, additional housing, and manufacturing companies. As a municipality that owns and operates entities such as the Portland International Jetport, the Portland Fish Pier, the Barron Center and the Oxford Street Shelter, the City is in a unique position as a service center. With this uniqueness comes a responsibility to the taxpayers to balance the services that we provide.

I would like to take a moment to share some highlights of our successes over the last year. We have placed a great emphasis on improving customer service by creating efficiencies and streamlining our processes. Last May, we launched a new and improved website that offers a number of customizable alert features for citizens. In January, we launched a mobile app and website called Fix It! Portland., which allows citizens to quickly and easily report a host of quality of life issues in a direct and transparent way. We've already responded to more than 1,000 issues. Additionally, the Treasurer's office now issues license plates at City Hall in order to save citizens an extra trip to the Bureau of Motor Vehicles. This month, we're beginning the sign installation process related to changing parking regulations on the peninsula so that residents will see a reduction in how many times they have to move their cars for street maintenance.

When it comes to our neighborhoods, we are continually working on ways in which to improve the urban fabric. Planning & Urban Development staff completed rewrites of three key zones, covering more than 1,000 acres, to encourage appropriate development and allow the city to grow its housing stock. They began work on a strategic transportation plan to guide future multimodal investments based on work on Franklin Street, State and High Streets, Spring Street, and our bicycle and pedestrian program. Additionally, they worked with land owners and developers on major projects such as Midtown and Portland Company, and with affordable housing developers on new projects on Washington Street, Bishop Street, and Cumberland Avenue. All told, the team reviewed and approved more than \$100 million of private investment in the city in calendar year 2014.

In support of our economic growth, our Economic Development team completed the first sale of one of the sites at the Portland Technology Park, which brings with it more than 40 jobs, and the sale of 71 Hanover Street, which will enliven an industrial property to support the expansion of Bayside Bowl and establish a permanent home for Portland Community Squash. The team also established the new Downtown/Transit TIF District and completed the expansion of the Bayside TIF District. The Portland Development Corporation closed five loans thus far in FY15 for a total of more than \$400,000, leveraging \$2.37 million in private dollars, creating eight jobs and retaining 33 jobs.

We also continue to provide key health and human services for our people. The Office of Elder Affairs responded to 685 requests for service in calendar year 2014, and they are partnering with the AARP on a five year project to designate Portland as an "Age Friendly Community." The Oxford Street Shelter placed 265 long-term homeless individuals into permanent housing. While this number is lower than past years, it is more impactful in terms of bed night reduction and recidivism rates. This was a key focus of the "7 Point Plan to End Homelessness." At the Family Shelter, 188 families were able to secure permanent housing during calendar year 2014. The Community Transformation Grant, which aims to give kids a healthy start, enrolled 86 early-child care sites and 11 schools. Additionally, the Barron Center maintained its optimal census of 210 individuals, and is beginning a relationship with the University of Southern Maine to train nursing students in gerontology.

Budget Goals

The goal of this budget was to minimize the taxpayer impact, minimize the impact to city services and recipients, minimize the impact to the City workforce, and to continue to responsibly manage our fund balance. You will see through this proposed budget that the staff and I have been very mindful of the challenges that we face due to the reduction in general assistance reimbursements, additional payroll and benefits costs, losses of public health and safety grants, and decreasing revenues. We are aware that Governor LePage's biennial budget calls for significant changes to the state's revenue sharing program, the reimbursement formula for state mandated general assistance, and excise tax for utility companies. However, we do not yet know the outcome of the state biennial budget process, and may not before this budget is passed. Therefore, we created a budget that does not attempt to quantify these uncertainties. What this budget does take into account are changes to General Assistance, resulting from the state's audit findings, and anticipates continued withholdings from the state for shelter operational costs and for what DHHS refers to, per the Governor's mandate, as undocumented individuals. In addition, we will continue to seek the state's assistance in developing a transition plan related to the 70% of individuals who come from outside of Portland, many from other Maine municipalities.

In order to reduce the bottom line impact to taxpayers, created by the Governor's mandates, we are forced to downsize our programming to match anticipated state and other revenue funding. Examples include changes to general assistance services and public health staffing based on funding changes, reduction in vouchers, and emergency services. We must rethink our role as the social services center for Maine in light of the state's view of the services that the City should be providing, and budget for these services appropriately. To further offset the impact to taxpayers, we will look to increase revenues from non-tax sources to ensure that fees for City services, licenses, and permits are competitive with fees charged in other local jurisdictions. With that said, beyond these required changes resulting in decreased funding, I'm pleased to announce that this budget does not call for any decrease in service levels for core City functions.

Last year, new initiatives funded through the FY15 budget were largely driven by City Council goals. This year, we crafted a budget that responds to the changing environment and recent events. It includes the following:

- Housing Safety Office: This budget calls for the funding of the Fire/Code Inspections Task Force recommendations with a self-sustainable program. This new office will include a director that will report directly to the City Manager as well as three cross-trained inspections officers to improve the safety of Portland's housing stock. Revenue collected will fully fund the program.
- Solid Waste Disposal Fee: We are proposing to raise the solid waste disposal fee to \$1.35 per 15 gallon bag, or \$13.50 for a pack, in order to help offset program costs and ensure alignment with the fee structure of other municipalities statewide. The Portland fee has not been increased in five years and is significantly lower than surrounding communities. In addition to the change in fee the City has also received the findings of our solid waste study that we commissioned this year, which fully examined our program to look for efficiencies. These findings will be discussed at the Transportation, Sustainability, and Energy Committee in the next few months, and there is the potential for implementing changes that will help further modernize the City waste disposal system.
- Universal Waste Program: We will achieve cost savings to the universal waste program by seeking a net-zero relationship with a provider to handle the disposal of such items as TVs, computers, and lightbulbs.
- Reduction in Staff: This budget calls for a reduction of 23.8 full time City positions. While we worked to limit the majority of cuts to vacancies, 15 occupied positions will be impacted. These positions are mostly related to General Assistance and non-grant funded public health staff. Twelve fire positions funded by the SAFER grant are projected to end on October 31. However, these positions are all likely to be absorbed by turnover within the Fire Department.
- Sea Level Rise Study: Given the importance of this topic and how it relates to the Bayside neighborhood, I am proposing to begin the process of building a sea level rise work plan which will include the commissioning of a new sea level rise study. Initial funding is \$100,000 and will be supported through the use of TIF funds.
- Parks & Open Spaces: After reviewing the Parks Commission's recommended projects, I am proposing a \$75,000 allocation through the City Manager's contingency fund for the group to fund a key project(s). I am also proposing a \$40,000 allocation for the Trust for Public Land to continue its effort with the City and Portland Trails for the Portland Open Space Vision & Implementation Plan.
- Fund Balance: This budget calls for the use of \$500,000 from the fund balance for FY16.
- Transitional Services: Due to the state reduction in general assistance, affected populations will lose food vouchers, and housing subsidies. More than 400 families will be impacted by the loss of food voucher benefits, and more than 230 will lose all supplemental food vouchers. In addition, due to eligibility requirements, there will be a need to assist the severely mentally ill to ensure they can access services. This funding would also support emergency overflow shelter operations. It should also be noted that in making CDBG funding decisions, prioritizations was given to those entities that could help fill the gap in critically needed services.
- CDBG Recommendations: This year, I have incorporated the City Manager's CDBG recommendations for 2015-2016 as part of this recommended budget. It seemed appropriate to demonstrate that we review all City investment in health and human services programs, regardless of funding sources, as a first step in making strategic decisions regarding our service priorities. My recommendations focused on mental health services, childcare services, food assistance, and emergency housing. I would like to thank the CDBG Committee for their recommendations and time in evaluating the many worthy requests.

Positive Budget Drivers

Property valuation has grown by more than \$50 million since last year. Excise taxes are projected to increase by \$50,000 for FY16. The increase in pay-to-throw bag fees will partially offset the operating loss, generating an additional \$517,000 in revenues. Licenses and permits revenue is also projected to increase in FY16. We also achieved a \$324,000 savings in fuel costs. Additionally, the city is projected to earn \$124,000 in new parking garage revenue and \$90,000 in additional outdoor concert and event revenue for FY16.

Budget Challenges

While there are many positive elements to this recommended budget, there are challenges other than the general assistance changes that were mentioned above. Additional challenges and obligations include:

Debt Service, including Pension Obligation: Debt service costs for FY16 have increased by approximately \$501,147, primarily due to increasing principal repayment of pension obligation bonds maturing in 2026.

Payroll, Benefits & Pension: Contractually obligated increases in compensation, including salary, workers compensation, health insurance, and pension costs have increased for FY16. Most notably required City contribution levels for employee pension and retirement programs have risen, resulting in a FY16 increase of approximately \$571,000 in budgeted pension contributions.

Grant Losses: Several grants Portland has received in previous fiscal years may not be renewed for FY16. This includes the SAFER grant (Staffing for Adequate Fire and Emergency Rescue) of \$466,075 and several Public Health grants including a \$417,000 grant related to minority health.

County Tax: The FY16 budget includes a \$271,000 increase in Cumberland County tax assessment.

Balancing the Budget

Despite an increase of just 0.4% in City expenditures, in order to balance the budget, based on my recommendation for FY16, the tax rate increase for municipal services is \$0.35 per \$1,000 of housing value, or 3.5%. This means that the impact on an average homeowner with a property valued at \$200,000 is \$70. When also considering the proposed budget increase by Portland Public Schools and the increase in Cumberland County tax, the total tax rate increase overall is \$0.58 per \$1000 in housing value. This results in a 2.9% overall increase from FY15.

Conclusion

I would like to thank Finance Director Brendan O'Connell, Assistant Finance Director Suzanne Knight, Budget Analyst Jennifer Lodge, Recreation & Facilities Management Director Anita LaChance, and Communications Director Jessica Grondin for their assistance in developing this budget recommendation and presentation, as well as the hard work and diligence of Department Heads in developing budget requests. We all look forward to reviewing this proposed budget with the Council.

Sincerely,



Sheila Hill-Christian
Acting City Manager

CITY OF PORTLAND, MAINE
COMPARATIVE BUDGET PLAN FY2016
 July 1, 2014 - June 30, 2015
 July 1, 2015 - June 30, 2016
 City Manager's Recommendation

	FY 15	FY 16	\$ +/(-)	%
CITY GENERAL FUND REVENUES				
31 Property Taxes	\$ 75,754,243	\$ 78,978,308	\$ 3,224,065	4.3%
31 Other Local Taxes	8,007,936	8,682,212	674,276	8.4%
32 Licenses & Permits	3,745,774	4,318,654	572,880	15.3%
33 Intergovernmental Revenue	15,169,850	9,320,226	(5,849,624)	-38.6%
34 Charges for Services	32,097,715	34,080,683	1,982,968	6.2%
35 Fines, Forfeits and Penalties	2,065,475	2,003,005	(62,470)	-3.0%
36 Use of Money and Property	7,877,882	8,101,192	223,310	2.8%
39 Other Sources	30,901,598	29,377,510	(1,524,088)	-4.9%
Fund Balance Use (Restoration)	735,000	500,000	(235,000)	-32.0%
Total General Fund Revenues	176,355,473	175,361,790	(993,683)	-0.6%

GENERAL FUND EXPENDITURES

100-1100	City Council	331,195	333,503	2,308	0.7%
100-1200	City Clerk	532,585	576,338	43,753	8.2%
100-1300	Executive	877,488	881,557	4,069	0.5%
	Housing Safety	0	335,783	335,783	0.0%
	Total Executive	877,488	1,217,340	339,852	38.7%
100-1400	Assessor	325,352	333,139	7,787	2.4%
100-1500	Finance Administration	1,029,191	1,034,988	5,797	0.6%
	Treasury	682,374	641,983	(40,391)	-5.9%
	Total Finance	1,711,565	1,676,971	(34,594)	-2.0%
100-1600	Legal	498,493	511,850	13,357	2.7%
100-1700	Human Resources Admin	802,801	1,041,392	238,591	29.7%
100-1800	Parking	1,183,259	1,276,152	92,893	7.9%
	Crossing Guides	130,200	129,200	(1,000)	-0.8%
	Elm Street Garage	237,269	242,647	5,378	2.3%
	Spring Street Garage	385,439	417,796	32,357	8.4%
	Temple Street Garage	107,550	108,176	626	0.6%
	Total Parking/Garages	2,043,717	2,173,971	130,254	6.4%
100-1900	Economic Development	264,926	273,906	8,980	3.4%
100-2100	Police Administration	992,383	996,771	4,388	0.4%
	Jetport Security	510,641	518,956	8,315	1.6%
	Uniformed Operations	8,545,710	8,709,329	163,619	1.9%
	Investigation Services	1,602,065	1,691,284	89,219	5.6%
	Support Services	835,219	694,174	(141,045)	-16.9%
	Dispatch	1,879,660	1,970,549	90,889	4.8%
	Total Police	14,365,678	14,581,063	215,385	1.5%

CITY OF PORTLAND, MAINE
COMPARATIVE BUDGET PLAN FY2016
July 1, 2014 - June 30, 2015
July 1, 2015 - June 30, 2016
City Manager's Recommendation

		FY 15	FY 16	\$ +/-	%
100-2200	Fire Administration	646,426	698,488	52,062	8.1%
	Code Enforcement	306,566	363,811	57,245	18.7%
	Field Operations	13,573,695	13,291,409	(282,286)	-2.1%
	Air Rescue	1,111,321	1,104,245	(7,076)	-0.6%
	Operations Support Services	1,122,635	1,129,569	6,934	0.6%
	Total Fire	16,760,643	16,587,522	(173,121)	-1.0%
100-2400	Planning & Urban Dev--Admin	430,104	478,318	48,214	11.2%
	Inspections	697,689	685,289	(12,400)	-1.8%
	Planning	823,195	787,362	(35,833)	-4.4%
	Housing & Comm Dev	145,904	132,742	(13,162)	-9.0%
	Historic Preservation	118,748	124,099	5,351	4.5%
	Total Planning & Urban Development	2,215,640	2,207,810	(7,830)	-0.4%
100-2900	Information Technology	2,147,017	2,135,846	(11,171)	-0.5%
100-3100	Public Services Administration	741,131	767,116	25,985	3.5%
	Cemeteries	586,028	579,885	(6,143)	-1.0%
	Forestry	658,815	622,118	(36,697)	-5.6%
	Districting	2,040,611	2,021,048	(19,563)	-1.0%
	Solid Waste	2,952,070	2,850,719	(101,351)	-3.4%
	Communications	146,852	149,000	2,148	1.5%
	Portland Downtown District	323,321	335,329	12,008	3.7%
	Construction Company	431,027	400,130	(30,897)	-7.2%
	Transportation Opr	2,116,640	2,184,770	68,130	3.2%
	Engineering	713,767	736,461	22,694	3.2%
	Winter	1,098,039	1,147,087	49,048	4.5%
	Fleet Services	3,954,448	3,616,029	(338,419)	-8.6%
	Island Services	568,574	569,545	971	0.2%
	Total Public Services	16,331,323	15,979,237	(352,086)	-2.2%
100-3300	Rec & Facilities--Administration	293,933	299,629	5,696	1.9%
	Trades	982,335	890,645	(91,690)	-9.3%
	Public Safety Bldg.	425,862	382,505	(43,357)	-10.2%
	City Hall Maint.	447,778	447,440	(338)	-0.1%
	Merrill Auditorium Maint.	430,777	450,249	19,472	4.5%
	Hadlock Stadium Maint.	263,150	270,650	7,500	2.9%
	Other Buildings Maint.	500,016	522,153	22,137	4.4%
	Ice Arena	533,013	551,105	18,092	3.4%
	Expo Building	403,735	426,876	23,141	5.7%
	Waterfront Maint.	721,211	774,103	52,892	7.3%
	Public Assembly Facilities Mgmt.	687,595	786,915	99,320	14.4%
	Concessions	293,111	313,520	20,409	7.0%
	School HVAC	531,878	539,303	7,425	1.4%
	Athletic Fields	772,084	738,859	(33,225)	-4.3%
	Recreation	1,605,139	1,685,854	80,715	5.0%
	Aquatics	404,512	417,906	13,394	3.3%
	School Maintenance	1,073,776	1,078,755	4,979	0.5%
	Therapeutic Recreation	159,168	189,911	30,743	19.3%
	Golf Course	784,069	781,166	(2,903)	-0.4%
	Golf Course Restaurant	418,887	365,550	(53,337)	-12.7%
	Total Facilities and Recreation Manageme	11,732,029	11,913,094	181,065	1.5%

CITY OF PORTLAND, MAINE
COMPARATIVE BUDGET PLAN FY2016
July 1, 2014 - June 30, 2015
July 1, 2015 - June 30, 2016
City Manager's Recommendation

		FY 15	FY 16	\$ +/()	%
100-4100	Public Health	3,899,599	3,711,300	(188,299)	-4.8%
100-4200	Social Services	13,274,993	8,610,001	(4,664,992)	-35.1%
107-4300	Barron Center	15,343,457	15,678,017	334,560	2.2%
100-4700	Debt Service	35,168,703	35,669,850	501,147	1.4%
100-4800	Public Library	3,591,915	3,681,713	89,798	2.5%
100-5100	Pension	6,588,237	7,168,175	579,938	8.8%
100-5200	Health Insurance	15,544,865	15,915,250	370,385	2.4%
	Workers' Comp	1,629,275	1,657,755	28,480	1.7%
	Group Life	189,420	198,790	9,370	4.9%
	Unemployment	175,000	150,000	(25,000)	-14.3%
	FICA	972,000	1,017,223	45,223	4.7%
	Total Employee Benefits	18,510,560	18,939,018	428,458	2.3%
100-7000	Capital Equipment	375,000	375,000	0	
100-6100	Contingent	125,000	931,000	806,000	
100-6200	Liability Insurance	763,990	775,003	11,013	1.4%
100-6500	Regional Transportation Program	145,514	130,459	(15,055)	-10.3%
	Contributions	384,000	424,148	40,148	10.5%
	Total Memberships/Contributions	529,514	554,607	25,093	4.7%
100-6700	Wage Adjustment	(237,000)	0	237,000	-100.0%
	Total General Fund Expenditures	168,874,420	167,636,666	(1,237,754)	-0.7%
100-6502	Metro Assessment	2,511,910	2,485,115	(26,795)	-1.1%
100-6300	County Tax	4,969,143	5,240,009	270,866	5.5%
Total General Fund and Assessments		\$ 176,355,473	\$ 175,361,790	\$ (993,683)	-0.6%

CITY OF PORTLAND, MAINE
COMPARATIVE BUDGET PLAN FY2016
 July 1, 2014 - June 30, 2015
 July 1, 2015 - June 30, 2016
 City Manager's Recommendation

		FY 15	FY 16	\$ +/- ()	%		
ENTERPRISE FUND REVENUES							
31 Property Taxes, Current Year	\$	-	\$	-	0.0%		
32 Licenses & Permits		144,000	153,975	9,975	6.9%		
33 Intergovernmental		116,800	116,800	0	0.0%		
34 Charges for Services		24,873,005	27,172,581	2,299,576	9.2%		
36 Use of Money and Property		19,538,843	20,119,843	581,000	3.0%		
39 Other Sources		27,733	335,045	307,312			
Fund Balance		(70,018)	(1,386,239)	(1,316,221)			
Total Enterprise Fund Revenues		44,630,363	46,512,005	1,881,642	4.2%		
ENTERPRISE FUND EXPENDITURES							
583-2800 Jetport Admin		852,417	894,921	42,504	5.0%		
Field		2,897,820	3,116,380	218,560	7.5%		
General Aviation		39,168	26,293	(12,875)	-32.9%		
Fringe, Indirects, & Chargebacks		3,277,367	3,559,028	281,661	8.6%		
Security		1,663,291	1,663,772	481	0.0%		
Terminal		4,974,756	5,099,636	124,880	2.5%		
Marketing		814,119	704,827	(109,292)	-13.4%		
Parking		567,975	545,259	(22,716)	-4.0%		
Airfield Deicing		4,178,254	4,614,302	436,048	10.4%		
Jetport Anticipated Surplus		897,828	528,643	(369,185)	-41.1%		
Total Jetport		20,162,995	20,753,061	590,066	2.9%		
530-3300 Fish Pier		278,345	336,795	58,450	21.0%		
570-1503 Sewer--Finance Admin		88,645	87,405	(1,240)	-1.4%		
570-3101 PW Admin		272,191	350,679	78,488	28.8%		
570-3112 Districting		1,398,181	1,779,367	381,186	27.3%		
570-3115 Communications		67,215	68,857	1,642	2.4%		
570-3137 Sewer Engineering		899,085	902,786	3,701	0.4%		
570-3140 Stormwater Management		1,713,446	0	(1,713,446)	-100.0%		
570-3155 Debt Service		7,607,401	7,249,665	(357,736)	-4.7%		
570-3156 Fringe Benefits		1,080,389	1,292,651	212,262	19.6%		
570-3158 Assessment from Portland Water District		11,062,470	11,255,841	193,371	1.7%		
Total Sewer		24,189,023	22,987,251	(1,201,772)	-5.0%		
571-1502 Stormwater - Finance Admin		0	189,204	189,204	0.00%		
571-3140 Stormwater Management		0	2,035,714	2,035,714	0.00%		
571-3155 Debt Service		0	0	0	0.00%		
571-3156 Fringe Benefits		0	209,980	209,980	0.00%		
Total Stormwater		0	2,434,898	2,434,898	0.00%		
Total Enterprise Fund Expenditures		44,630,363	46,512,005	1,881,642	4.2%		
TOTAL CITY EXPENDITURES	\$	220,985,836	\$	221,873,795	\$	887,959	0.4%

TAX RATE COMPUTATION--FY2016
City Manager's Recommendation

	General Fund	Enterprise Funds	TOTAL CITY
Total Expenditures	175,361,790	46,512,005	221,873,795
Less: Revenues	(95,883,482)	(47,898,244)	(143,781,726)
Surplus	(500,000)	1,386,239	886,239
Tax Levy	78,978,308	0	78,978,308
Valuation	7,712,000,000		
Tax Rate:			
FY16	10.24	0.00	10.24
FY15	9.89	0.00	9.89
\$ Increase	0.35	0.00	0.35
% Increase	3.5%	0.0%	3.5%

CITY OF PORTLAND, MAINE
FY2016 Non-Tax Revenue
(without surplus or TIF reimb)
City Manager's Recommendation

Department	FY14 Collected	FY15 Est (budget)	FY15 Proj	FY16 Est (budget)	FY16 Est vs FY15 Est (budget)	%
General Fund Revenues:						
City Council	5,000	5,000	5,000	5,000	0	0.0%
City Clerk	1,108,207	1,090,923	1,083,931	1,131,848	40,925	3.8%
Executive	1,190,004	1,074,645	884,039	1,582,381	507,736	47.2%
Assessor	2,454	1,300	2,520	2,520	1,220	93.8%
Finance	16,259,069	15,742,536	15,807,777	15,982,819	240,283	1.5%
Legal	129,105	137,488	138,688	78,443	(59,045)	-42.9%
Human Resources	53,824	45,656	45,656	125,272	79,616	174.4%
Parking	6,736,533	6,688,472	6,992,253	7,062,172	373,700	5.6%
Econ Dev	36,688	35,347	36,247	35,957	610	1.7%
Police	2,153,229	2,272,133	2,501,101	2,235,029	(37,104)	-1.6%
Fire	4,485,422	5,523,740	4,652,646	4,435,419	(1,088,321)	-19.7%
Planning & Development	2,186,274	2,642,785	2,166,850	2,490,524	(152,261)	-5.8%
Information Technology	208,223	211,942	209,774	363,366	151,424	71.4%
Public Services	4,911,755	5,081,056	5,171,062	5,484,965	403,909	7.9%
Recreation & Facilities Management	7,969,615	8,867,795	8,712,232	9,156,804	289,009	3.3%
HHS--Public Health	3,514,567	2,963,437	2,897,536	3,120,681	157,244	5.3%
HHS--Social Services	10,095,597	10,729,166	6,861,951	4,995,353	(5,733,813)	-53.4%
HHS--Barron Center	17,387,023	18,244,018	18,375,520	19,172,355	928,337	5.1%
Employee Benefits	6,167,170	6,287,594	6,396,464	6,582,329	294,735	4.7%
Insurance	187,628	162,435	162,435	160,337	(2,098)	-1.3%
Debt Service Reimb.	13,666,496	14,627,826	14,627,826	13,731,813	(896,013)	-6.1%
Total General Fund:	98,453,883	102,435,294	97,731,508	97,935,387	(4,499,907)	-4.4%
Enterprise Funds Revenue:						
Fish Pier Authority	517,898	496,213	517,713	501,974	5,761	1.2%
Sewer	22,348,333	24,041,173	23,972,109	24,081,052	39,879	0.2%
Stormwater	0	0	0	2,562,157	2,562,157	100.0%
Jetport	19,624,536	20,162,995	20,292,517	20,753,061	590,066	2.9%
Total Enterprise Funds:	42,490,767	44,700,381	44,782,339	47,898,244	3,197,863	7.2%
Total City Revenue	\$140,944,650	\$147,135,675	\$142,513,847	\$145,833,631	(\$1,302,044)	-0.9%

FY2016 CITY BUDGET SUMMARY

by category

City Manager's Recommendation

	FY15 Approp.	FY16 Proposed	\$ +/-	% +/-	% Of Total
01 Personnel--General Fund	71,578,635	72,889,151	1,310,516	1.8%	
--Ent Funds	5,276,717	5,854,222	577,505	10.9%	
Total	76,855,352	78,743,373	1,888,021	2.5%	35.5%
02+ Contractual--General Fund	57,201,479	54,552,994	(2,648,485)	-4.6%	
--Ent Funds	23,526,051	24,679,385	1,153,334	4.9%	
Total	80,727,530	79,232,379	(1,495,151)	-1.9%	35.7%
55 Supplies--General Fund	7,764,551	7,246,796	(517,755)	-6.7%	
--Ent Funds	1,022,108	982,514	(39,594)	-3.9%	
Total	8,786,659	8,229,310	(557,349)	-6.3%	3.7%
63 Utilities--General Fund	4,211,105	4,571,999	360,894	8.6%	
--Ent Funds	1,261,948	1,349,459	87,511	6.9%	
	5,473,053	5,921,458	448,405	8.2%	2.7%
70 Capital--General Fund	431,000	431,000	0	0.0%	
--Ent Funds	1,445,410	2,054,843	609,433	42.2%	
Total	1,876,410	2,485,843	609,433	32.5%	1.1%
75 Debt Svc--Total GF	35,168,703	35,669,850	501,147	1.4%	16.1%
--Ent Fund Portion	6,925,540	6,790,853	(134,687)	-1.9%	
75 Jetport Rev Bond Debt Svc	4,274,761	4,272,086	(2,675)	-0.1%	
Jetport surplus	897,828	528,643	(369,185)	-41.1%	
Total General Fund	176,355,473	175,361,790	(993,683)	-0.6%	
Total Enterprise Funds	44,630,363	46,512,005	1,881,642	4.2%	
Total	220,985,836	221,873,795	887,959	0.4%	100.0%

City of Portland, Maine
Tax Levy by Budget Category
City Manager's Recommendation

Department	FY16 Tax Levy	FY16 Tax Rate	% of Taxes
Debt Service	21,938,037	\$2.84	27.8%
Police	14,046,797	\$1.82	17.8%
Fire	13,779,580	\$1.79	17.4%
Public Services	10,671,745	\$1.38	13.5%
County Tax	5,240,009	\$0.68	6.6%
Library	3,681,713	\$0.48	4.7%
Recreation & Facilities Mgmt	2,908,964	\$0.38	3.7%
Metro	2,485,115	\$0.32	3.1%
General Government	2,235,659	\$0.29	2.8%
Health & Human Services	1,990,689	\$0.26	2.5%
Total:	\$78,978,308	\$10.24	100.0%

**City of Portland
Staffing FTE Change
FY2016 City Manager's Recommendation**

Department	FY13	FY14	FY15	FY16	+/- Chg
General Fund:					
City Clerk	9.6	9.2	9.2	8.9	(0.3)
Executive	9.0	9.0	10.0	15.0	5.0
Assessor	4.9	4.9	4.9	4.9	-
Finance	26.0	25.0	26.0	24.3	(1.7)
Legal	5.7	5.5	6.0	6.0	-
Human Resources	10.0	10.0	10.0	10.0	-
Parking	29.6	29.6	29.6	29.6	-
Economic Development	4.0	3.0	3.0	3.0	-
Police	221.0	220.5	225.3	223.3	(2.0)
Fire	234.0	235.0	235.7	228.1	(7.6)
Planning & Urban Development	33.0	32.3	35.4	34.2	(1.2)
IT	16.6	16.8	17.3	17.0	(0.3)
Public Services	150.0	152.0	152.5	148.5	(4.0)
Rec & Facil Mgmt	107.2	118.1	121.6	120.0	(1.6)
Public Health	80.8	92.4	70.0	60.1	(9.9)
Social Services	65.7	76.1	79.4	73.7	(5.7)
Barron Center	262.3	264.1	266.2	266.7	0.5
<i>Total HHS:</i>	<i>408.8</i>	<i>432.6</i>	<i>415.6</i>	<i>400.5</i>	<i>(15.1)</i>
General Fund Subtotal:	1,269.4	1,303.5	1,302.1	1,273.3	(28.8)
Enterprise Funds:					
Golf Course	3.0	-	-	-	-
Sewer Fund	37.0	38.0	39.0	32.0	(7.0)
Stormwater Fund	-	-	-	11.5	11.5
Ice Arena	5.0	-	-	-	-
Jetport	47.0	47.0	49.0	49.5	0.5
Enterprise Funds Subtotal:	92.0	85.0	88.0	93.0	5.0
Total City Employees:	1,361.4	1,388.5	1,390.1	1,366.3	(23.8)

Staffing FTE Change Detail
City Manager's Recommendation

04/06/15

Dept.	FTE	Position	Est. \$
City Clerk	(0.3)		
		1.0 Business License / Election Asst	\$33,624
		(1.1) Election Assistants	(\$36,910)
		(0.2) Principal Financial Officer	(\$13,207)
Executive	5.0		
		(1.0) Arts & Equity Director	(\$51,597)
		(1.0) Asst to the City Manager	(\$62,853)
		1.0 Chief of Staff	\$99,485
		1.0 New Education Officer (Fire)	\$55,000
		1.0 New Housing Safety Officer	\$75,000
		3.0 New Inspectors	\$135,000
		1.0 New Project Manager	\$62,853
Finance	(1.7)		
		(0.7) Account Clerk II	(\$26,250)
		(1.0) Cashier	(\$33,181)
Police	(2.0)		
		(1.0) Administrative Assistant (NU)	(\$37,089)
		(1.0) Code Enforcement Officer	(\$33,010)
		1.0 Detective	\$55,539
		(1.0) Police Officer	(\$48,790)
		(1.0) Public Service Clerk	(\$34,378)
		1.0 New Telecommunicator (transition PSAP consolidation)	\$39,686
Fire	(7.6)		
		0.5 Assistant Fire Chief (FY15 Jan. Start)	\$44,888
		(0.2) Emergency Management Administrator	(\$17,000)
		1.0 Fire Alarm Specialist	\$55,411
		(0.3) Fire Alarm Supervisor	(\$38,886)
		(1.3) Fire Alarm Tech	(\$57,606)
		(6.3) Firefighter/EMTs (SAFER)	(\$390,851)
		(2.0) Firefighters (SAFER)	Above
		1.0 Radio System Specialist	\$54,642
Planning & Urban Development	(1.2)		
		(1.0) Bicycle/Ped Program Coord	(\$51,510)
		(1.0) HCD Office Assistant	(\$33,653)
		(0.1) Reduction in hours for HCD Program Manager	(\$6,246)
		(0.1) Reduction in hours for Planners	(\$5,539)
		1.0 Planner (Housing)	\$46,832
Information Technology	(0.3)		
		(1.0) Applications Program Manager	(\$67,743)
		0.5 Customer Svc Specialist (FY15 Jan. Start; title formerly 311 Operator)	\$20,595
		0.2 Increase in hours for Programmer-Analysts	\$11,588
Public Services	(4.0)		
		(1.0) Construction MW II (Replaces MW III)	(\$37,149)
		(1.0) Districting MW II (Replaces MW III)	(\$37,145)
		(1.0) Fleet Services Supervisor	(\$43,526)
		(1.0) Park Ranger	(\$31,073)
Recreation & Facilities	(1.6)		
		0.5 New Waterfront Custodial Worker	\$16,870
		(0.2) Reduction in hours for PAF Event Staff	(\$5,106)
		(1.0) HVAC Technician III	(\$53,431)
		(1.0) Parks Facilities Assistant	(\$37,104)
		(1.0) Parks Supervisor	(\$47,778)
		1.0 Playground Technician	\$42,599
		(0.1) Reduction in hours for Therapeutic Recreation Programmer I	(\$3,348)
		0.1 Increase in hours for Aquatics Recreation Programmers Net	(\$6,117)
		1.6 New Recreation (33-14) Recreation Programmers Net	\$58,043
		(0.5) Security Supervisor	(\$16,711)
		(1.0) Sous Chef (Golf Course Restaurant; Utilizing Temps)	(\$35,000)

Staffing FTE Change Detail
City Manager's Recommendation

04/06/15

Dept.	FTE	Position	Est. \$
Public Health	(9.9)		
		(1.0) Accountant	(\$40,777)
		(1.0) Administrative Assistant (CEBA)	(\$34,515)
		(0.4) Administrative Assistant (Proj): Net	(\$13,368)
		(0.1) Reduction in hours for Clinical Assistant (Proj)	(\$3,224)
		(1.2) Comm Health Promo Specialists	(\$55,816)
		1.0 New Comm Health Promo Specialist (Proj)	\$45,468
		(2.1) Comm Health Promo Specialists (Proj)	(\$100,582)
		0.2 New Dental Assistant	\$5,913
		(0.3) Reduction in hours Dental Hygienist	(\$21,472)
		1.0 Dentist (Contract): 0.3 From 41-04	\$79,046
		0.5 New Health Inspector	\$22,881
		(4.4) Homeless Health Various Titles (11): Dec. 2014 Closure	(\$264,230)
		0.3 Increase in hours India Street Various Positions (4): Net	\$1,676
		(1.0) Laboratory Technician	(\$40,696)
		(0.6) Minority Health Prom Sp (PR)	(\$35,102)
		0.4 Increase in hours Office Assistant: 0.6 from 41-04	\$15,030
		0.1 Increase in hours Office Manager	\$4,010
		0.3 Program Coord (Proj): Net	\$9,387
		(0.5) Program Coordinator	(\$32,657)
		(1.0) Program Manager (PH/SS)	(\$70,686)
		(0.1) Reduction in hours for Public Health Nurse	(\$5,987)
Social Services	(5.7)		
		(2.0) Financial Eligibility Specialists (Proj)	(\$66,905)
		0.6 Human Services Counselor (Proj)	\$22,750
		(1.0) Program Coordinator	(\$60,002)
		(3.0) Shelter Attendants (Proj)	(\$103,912)
		(0.3) Reduction in hours Shelter Attendant	(\$10,610)
Barron Center	0.5		
		0.1 Dental Hygienist	\$6,316
		0.4 Increase in hours RSD	\$24,936
Sewer	(7.0)		
		(5.0) Maintenance Worker IIIs	(\$211,393)
		(1.0) Public Services Supervisor	(\$53,127)
		(1.0) Stormwater Coordinator	(\$62,459)
Stormwater	11.5		
		0.8 Account Clerk II (Sept. 2015 Start)	\$27,030
		1.0 Assistant Engineer	\$46,700
		0.7 Cashier Clerk (Nov. 2015 Start)	\$21,374
		1.0 Customer Service Representative	\$31,900
		5.0 Maintenance Worker IIIs	\$211,393
		1.0 Programmer Analyst	\$46,500
		1.0 Public Services Supervisor	\$53,127
		1.0 Stormwater Coordinator	\$62,459
Jetport	0.5		
		0.5 New Airport Comm/Security Spec	\$19,049
		(2.0) Airport Maintenance Worker IIIs	(\$72,645)
		2.0 Airport Operations Supervisors	\$77,812
Total	(23.8)		(\$1,017,540)
Tax Supported GF	(18.0)		(\$626,933)
Grant Supported	(10.8)		(\$588,327)
GF	<u>(28.8)</u>		<u>(\$1,215,260)</u>
Enterprise Fund Supported	5.0		\$197,720
Net Total	(23.8)		(\$1,017,540)

Council Workshops & Meetings, Finance Committee, CDBG

Last updated 4/3/15

April

	Mon	Tue	Wed	Thu	Fri	Sat
			1	2	3	4
5	6 7:00 City Council Meeting City Manager presents City Budget, CDBG recommendations; 1 st read CIP, 1 st read CDBG	7	8	9 6:00 FC Meeting Public Hearing (Joint with School) Review Board Recommended School Budget Review City's FY16 Budget	10	11
12	13	14	15	16 FC Meeting 5:00 Review City's FY16 Budget 6:00 Minimum Wage Public Hearing, Take Action (Council Chambers)	17	18
19	20 Patriot's Day Holiday School Vacation Week	21	22 5:30 HCDC meeting CDBG, 1 st public hearing	23 6:00 FC Meeting Review City's FY16 Budget	24	25
26	27 7:00 City Council Meeting 1 st Read and Public Hearing-School Budget, 2 nd read CIP/Public Hearing		29	30 6:00 FC Meeting Review City's FY16 Budget Wrap up budget Discussion and recommendation		2015

Council Workshops & Meetings, Finance Committee, CDBG
Last updated 4/6/15

May

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
					1	2
3	4 5:00 Special Council Meeting CDBG 2 nd Read, 2 nd Public Hearing, Council action 7:00 Regular Council Meeting 1 st Read Municipal Budget and Public Hearing; 2 nd Read and Vote on School Budget	5	6	7	8	9
10	11 Council Workshop City Budget Only 5:30 pm	12 Referendum on School Budget	13	14 FC Meeting	15	16
17	18 7:00 Council Meeting 2 nd Read and Vote on Municipal Budget	19	20	21	22	23
24	25	26	27	28 FC Meeting	29	30
31						2015