

Regular City Council Meeting
June 1, 2015

1. Agenda Only

Documents: [2015-06-01 AGENDA ONLY.PDF](#)

2. Agenda And Packet

Documents: [2015-06-01 AGENDA AND PACKET.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
JUNE 1, 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:

SPECIAL MEETING:

Order 267-14/15 (Tab 1) Order Authorizing City to Apply for Additional Grant Funding to Expand the City's Regional Economic Development Revolving Loan Program (REDRLP) – Sponsored by Portland Development Corporation, Barry Sheff, Board President.

The deadline for the City to apply for additional grant funding from FAME was May 18, 2015. The application was submitted to FAME, subject to Portland Development Corporation and City Council approval. It is noted that the Portland Development Corporation recommends approval of requesting additional REDRLP funds. Also, FAME understands that City Council approval was pending at the time the application was filed.

A pool of \$8 million in additional REDRLP funding was approved by Maine voters in Nov. 2014. (While these bond funds haven't yet been released by the Governor, FAME is seeking REDRLP applications for such time as they become available.)

FAME issued a Request for Proposals on April 6, 2015 seeking applications from nonprofit and governmental organizations for REDRLP funding to establish or expand this revolving loan fund within their organization. Entities may apply for an amount that does not exceed \$3.5 million, including previous REDRLP and SSBCI (State Small Business Credit Initiative) funds. While applications are due on May 18, 2015, FAME has accepted that the City's authority to apply will be provided on June 2nd after the City Council has voted on this item.

The Portland Development Corporation (PDC) recommended approval on May 18th that the City apply for \$1 million in additional REDRLP funds. To date, the City has received a total of \$1,287,992 (comprised of \$425,038 in REDRLP; \$132,954 in special category REDRLP; and

\$730,000 in SSBCI funds). Applying for \$1 million of additional REDRLP funds would bring the City's total to just over \$2.2 million, if the grant request is successful. That would allow the City to also access just over \$1.2 million in SSBCI dollars before reaching the \$3.5 million cap.

Five affirmative votes are required for passage after public comment.

ANNOUNCEMENTS:

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 2) May 18, 2015

PROCLAMATIONS:

APPOINTMENTS:

CONSENT ITEMS:

LICENSES:

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

**Order 184-14/15 Amendment to Portland City Code Chapter 14. Land Use Re: 58
(Tab 3) 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. At the April 6 meeting, this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

**Order 185-14/15
(Tab 4)**

Amendment to Zoning Map Re: 58 Fore Street – 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 16. At the April 6 meeting, this item was postponed to this meeting. Five affirmative votes are required for passage after public comment.

**Order 255-14/15
(Tab 5)**

Amendment to Portland City Code Chapter 14. Land Use Article III. Zoning Division 17 Re: Drive-in Banks in the B-7 Zone - Sponsored by the Planning Board, Stuart O’Brien, Chair.

Bangor Savings Bank is requesting a text amendment in order to develop a small lot at 20 Marginal Way, within the B-7 Zone, as a three-story bank with drive-through. The proposed zoning text amendment would amend the drive-through requirements of the B-7 Conditional Use standards (§14-296(a)(1)(c)) that currently require that bank drive-throughs must be within a building of at least 20,000 square feet. The proposed text amendment would create an exception to this requirement for smaller buildings on small lots in existence at the time B-7 was first enacted on March 9, 2005.

The Planning board met on April 14, 2015, and voted 5-0 (Boepple and O’Brien absent) to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. It was given a first reading on May 18, 2015. Staff recommends this order be postponed to the 6/15/15 Council Meeting.

**Order 256-14/15
(Tab 6)**

Amendment to Portland City Code Chapter 7 (Cemeteries) Article I. to VII. Re: Update to Cemetery Ordinance- Sponsored by Michael J. Sauschuck, Acting City Manager.

The Department of Public Services wishes to update language in Chapter 7 of the City Code to address to reflect current cemetery management practices.

It has been many years since Chapter 7 has been amended. Over the years operating procedures and funeral practices have evolved, making some of the language in the ordinance archaic or obsolete. The proposed amendments align the language with current practices.

The proposed amendments also allow staff to charge a reasonable fee for the use of Wilde Chapel. Corporation Counsel has reviewed the records and has found no language in the City Charter prohibiting this practice.

This item must be read on two separate days. It was given a first reading on May 18, 2015. Staff recommends this order be postponed to the 6/15/15 Council Meeting.

ORDERS:

**Order 268– 14/15
(Tab 7)**

Order Approving the Temporary Operating Agreement Between the City of Portland and Uber – Sponsored by the Transportation, Sustainability & Energy Committee, Councilor David A. Marshall, Chair.

The City's Transportation, Sustainability & Energy Committee has been considering how to regulate Transportation Network Companies which provide customers with ride by the use of an application on a cell phone. Rules remain under consideration. But while those decisions are being reviewed, the City's Corporation Counsel has worked with representatives of Uber to draft a Temporary Operating Agreement, imposing rules on that company that it is willing to abide by.

Transportation Network Companies ("TNCs") are not yet regulated under the Rules of the Jetport or under the City Code Ordinances regulating taxis and liveries. TNCs are operating in the City without requirements for insurance or inspections, among other things. The City Council wishes to bring the TNCs under the rules and regulations of other persons and businesses that offer rides in the City limits.

Five affirmative votes are required for passage after public comment.

**Order 269-14/15
(Tab 8)**

Order Adopting Development Program for the Portland Downtown District for Fiscal Year 2015-2016 – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order adopts the development program (as outlined in the agenda backup materials) for the Portland Downtown District for fiscal year 2015-2016, submitted by the Acting City Manager, pursuant to 30-A M.R.S.A. Section 5244 (1).

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

**Order 270-14/15
(Tab 9)**

Order Assessing Maintenance and Implementation Assessments in the Portland Downtown District for Fiscal Year 2015-2016 – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order assesses the sum of \$746,307 to be raised and appropriated from the special assessments on all real estate situated within the boundaries of the Portland Downtown District to fund maintenance and implementation costs for such district for the period beginning July 1, 2015 and ending on June 30, 2016.

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

**Order 271-14/15
(Tab 10)**

Order Approving and Authorizing the Acting City Manager to Enter into Master Agreement and Supplemental Services Agreement with Portland's Downtown District – Sponsored by Michael J. Sauschuck, Acting City Manager.

This order approves and authorizes the City Manager to enter into a Master Agreement, with the Baseline Services provided in Exhibit B, with the Downtown Improvement District Corporation d/b/a Portland's Downtown Improvement District, to carry out the development plan for Portland's Downtown Improvement District for the period and also a Supplemental Services Agreement to implement Supplemental Public Works Services as approved in the Fiscal Year 2016 Appropriation Resolve, from and after July 1, 2015 and ending June 30, 2016.

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

**Order 272- 14/15
(Tab 11)**

Order Authorizing and Appropriating a Portion of Funds from the Sale of Unit 1 at Portland Technology Park to be used for the Natural Gas Connection – Sponsored by the Finance Committee, Councilor Nicholas Mavodones, Chair.

Natural gas service is needed at the Portland Technology Park to be available to occupants, including bioscience manufacturers and technology-related companies.

The Council previously approved two easements to Unitil for installation and maintenance of a natural gas line from the natural gas main on Westbrook Street to the Technology Park. The new gas line will connect to the existing line installed under the completed Phase 1 section of the Park road. (See Attachment 1 – Proposed route of the 20'-wide gas line.)

The nearest natural gas main is on Westbrook Street. Over several years, various routes to bring natural gas to the Technology Park were considered. The proposed route is recommended as it is a lower-cost option that will minimize impacts to the environment and infrastructure expense.

Staff seeks authorization from the Council to appropriate a portion of the proceeds from the sale of Unit 1 at the Technology Park to Patrons Oxford Insurance to cover the costs needed for bringing natural gas to the Park.

With natural gas in place, marketing the two available sites at the Technology Park will enhance the City's ability to sell them. Importantly, the Patrons Oxford Purchase and Sale Agreement commits the City to complete a natural gas service connection into the Park.

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

**Order 273-14/15
(Tab 12)**

Order to Approve MaineDOT/City Agreement for 2015 Municipal Partnership Initiative (MPI) Project to Pave Washington Avenue – Sponsored by Michael Sauschuck, Acting City Manager.

The Department of Public Services requests approval for the Acting City Manager to enter into a two-party agreement with MaineDOT so we may proceed with design and bid advertisement to rehabilitate a portion of Washington Ave and Washington Ave Extension. The total value of investment is estimated to be \$775,000 and the 50% Local cash obligation is estimated to be \$387,500.

The City cannot proceed with final design and bid document preparation without this agreement being executed. Failure to execute this agreement could result in deferral or elimination of leveraged funding for this MaineDOT/City Partnership project.

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

AMENDMENTS:

**Order 274– 14/15
(Tab 13)**

Order to Amend the Zoning Map for the property at 667 Congress Street – Sponsored by the Portland Planning Board, Stuart O'Brien, Chair.

Jonathan Cully of Redfern Properties is requesting a zoning map amendment for the property at 667 Congress Street. Redfern Properties is working in partnership with MSD Properties, LLC and Joe's Super Variety to redevelop the property. The site is divided by two different zones; the front portion along Congress Street is in the B3 zone and the rear portion is in the R6 zone. The applicant is seeking to extend the B3 zone to include the R-6 portion in the rear of the property, making the site consistent with the zoning on adjacent properties to the east and south. The density limits and height limitation in the R6 zone constrain the redevelopment of this site. The split zoning of the site does not accommodate an integrated development for a multifamily apartment building with Joe's Super Variety occupying the first floor along Congress Street and structured parking below the building. The proposed zone amendment includes extending the

Downtown Height Overlay map to be contiguous with the B-3 map amendment. The maximum building height is proposed to be 85 feet for the majority of the site with a maximum building height of 45 feet for the rear 40' of property, which is adjacent to the R-6 zone along Deering Street. The Downtown Entertainment Overlay Zone would also be extended to cover the rezoned area as part of the map amendment, since it refers explicitly to and is defined by the B3 zone by ordinance.

On May 12, 2015, the Planning Board voted unanimously 4-0 (O'Brien, Hall and Morrisette absent) found the proposed zoning map amendments to be consistent with the comprehensive plan and recommended adoption of the amendments to the City Council to rezone 667 Congress Street from Residential (R-6) to Downtown Business (B-3) and the concurrent amendments to modify the Downtown Height Overlay Map to extend the 85 foot maximum building height for a majority of the site with a 45 foot maximum building height limit for 40 feet from the rear the property line.

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

Order 275-14/15
(Tab 14)

Order to Amend the Zoning Map for the property at 605 Stevens Avenue – Sponsored by the Portland Planning Board, Stuart O'Brien, Chair.

Seacoast at Baxter Woods Associates, LLC, requests a map change, with associated text amendments, from the existing R5 zone to the R5A zone for part of a 17.5 acre parcel at 605 Stevens Avenue, subject of a P&S from the Sisters of Mercy. The map amendment is for a 13.5 acre portion that includes the long-vacant "Motherhouse" and surrounding grounds and some playing fields; Catherine McAuley High School and St Catherine's Hall are excluded and would remain R5. On May 12, 2015, the Planning Board unanimously voted to recommend the map amendment and text amendments (R5A) to the City Council with a vote of 4-0, Eaton recused, and O'Brien and Morrisette absent.

The zoning amendments have been requested to facilitate the rehabilitation of the Motherhouse for at least 66 affordable housing units and for a surrounding senior retirement community of approximately 200 dwellings on the open land behind the Motherhouse. The text amendments to R5A include: the addition of multifamily housing and congregate care as permitted uses; extension of the existing moderate density of the R5A PRUD (Planned Residential Unit Development) to these uses through amendments to the required lot area per dwelling and the basis of calculation; and clarify 55 feet as the maximum height for these uses along with a requirement for 200 sq ft of open space per dwelling unit.

The applicant had initially requested an R6A zone change that included Catherine McAuley High School and playing fields, with a maximum building height of 60 feet. During the course of the review, the applicant revised their application to reduce the site to be rezoned (excluding McAuley High School and St. Catherine's), switch from R6A to R5A (a lower density) and to reduce the maximum building height from 60 to 55 feet. In addition, the applicant is

offering McAuley High School a 25-year lease and the school board supports the proposal for an intergenerational campus.

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Downtown Height Overlay map to be contiguous with the B-3 map amendment. The maximum building height is proposed to be 85 feet for the majority of the site with a maximum building height of 45 feet for the rear 40' of property, which is adjacent to the R-6 zone along Deering Street. The Downtown Entertainment Overlay Zone would also be extended to cover the rezoned area as part of the map amendment, since it refers explicitly to and is defined by the B3 zone by ordinance.

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LICENSE RENEWALS:

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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 CITY TO APPLY FOR ADDITIONAL GRANT FUNDING TO
EXPAND THE CITY'S REGIONAL ECONOMIC DEVELOPMENT REVOLVING
LOAN PROGRAM (REDRLP)**

ORDERED, that the City Council hereby authorizes the City to apply for additional grant funding, in the amount of \$1 million, from the Finance Authority of Maine (FAME) to expand the City's Regional Economic Development Revolving Loan Program (REDRLP).



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

City Council Agenda Item

TO: Mayor and Members of the City Council

FROM: Greg Mitchell, Economic Development Director

DATE: May 18, 2015

SUBJECT: Order Authorizing City to Apply for Additional Grant Funding from FAME to Expand the City's Regional Economic Development Revolving Loan Program (REDRLP)

SPONSOR: Portland Development Corporation/Barry Sheff, Board President

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading and Final Action: June 1, 2015

Can action be taken at a later date: _____ Yes **X** No (If no why not?)

The deadline for the City to apply for additional grant funding from FAME was May 18, 2015. The application was submitted to FAME, subject to Portland Development Corporation and City Council approval. It is noted that the Portland Development Corporation recommends approval of requesting additional REDRLP funds. Also, FAME understands that City Council approval was pending at the time the application was filed.

PRESENTATION: Barry Sheff, President/Portland Development Corporation Board

I. SUMMARY OF ISSUE

A pool of \$8 Million in additional REDRLP funding was approved by Maine voters in Nov. 2014. (While these bond funds haven't yet been released by the Governor, FAME is seeking REDRLP applications for such time as they become available.)

FAME issued a Request for Proposals on April 6, 2015 seeking applications from nonprofit and governmental organizations for REDRLP funding to establish or expand this revolving loan fund within their organization. Entities may apply for an amount that does not exceed \$3.5 million, including previous REDRLP and SSBCI (State Small Business Credit Initiative) funds. While

applications are due on May 18, 2015, FAME has accepted that the City's authority to apply will be provided on June 2nd after the City Council has voted on this item.

The Portland Development Corporation (PDC) recommended approval on May 18th that the City apply for \$1 Million in additional REDRLP funds.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

City Council approval is needed to formally apply to FAME for these grant funds for the REDRLP.

III. INTENDED RESULT

The intended result is for the expansion of the City's REDRLP fund, administered by the PDC, for loans to Portland businesses.

IV. COUNCIL GOAL ADDRESSED

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 is no financial impact in the City applying for additional REDRLP grant funding to be administered by the PDC for loans to Portland businesses.

VI. STAFF ANALYSIS

Presently, \$128,456 remains available to lend in PDC's REDRLP fund, all of which is second generation, meaning these funds have been lent out once and paid back with interest. The principal balance of outstanding REDRLP loans is \$258,321.

There is a \$3.5 million FAME cap and City of Portland cap on grant funds received from FAME for lending from REDRLP and SSBCI. To date, the City has received a total of \$1,287,992 (comprised of \$425,038 in REDRLP; \$132,954 in special category REDRLP; and, \$730,000 in SSBCI). Applying for \$1 million of additional REDRLP funds would bring the City's total to just over \$2.2 million, if the grant request is successful. That would allow the City to also access just over \$1.2 million in SSBCI dollars before reaching the \$3.5 million cap. There are differing benefits and costs for both funds, making it helpful to have the opportunity to access either source, depending on the project. While the SSBCI Program has fewer constraints than REDRLP relative to the borrower's business type, number of employees and annual sales, it does have substantial private funding leverage requirements that are challenging for many of the projects that seek PDC funds. The PDC requests SSBCI dollars from FAME as needed because that program is first-come-first-served until the funds run out. At this time there is at least several million dollars remaining, with more that FAME could access from the U.S. Treasury once Maine uses what it currently has.

VII. RECOMMENDATION

At its meeting on May 18, 2015, the PDC unanimously voted (8-0) to forward this item to the City Council with a recommendation that it authorize the City to apply \$1 Million in grant funds from the FAME to expand the PDC's REDRLP fund for loans to Portland businesses.

VIII. LIST ATTACHMENTS

- Application to FAME of 5/18/2015

IN COUNCIL REGULAR MEETING MAY 18, 2015 VOL. 130 PAGE 90

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

ANNOUNCEMENTS: Councilor Suslovic announced that it was National Police Week.

RECOGNITIONS:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Hinck and seconded by Councilor Brenerman for approval of the minutes of May 4, 2015, Special, and May 4, 2015 Regular City Council Meeting. Passage 9-0.

PROCLAMATIONS:

Proc 30-14/15 Proclamation Honoring Gibson Fay-Leblanc as Portland's Poet Laureate – Co-Sponsored by Councilors Jill C. Duson, David A. Marshall, Nicholas M. Mavodones, Jr., Jon Hinck, David Brenerman, Justin Costa, and Mayor Michael F. Brennan.

Proc 31-14/15 Proclamation Honoring Regina Phillips, Health & Human Services Department, Social Services Division, as Employee of the Month for April 2015 – Sponsored by Mayor Michael F. Brennan.

Proc 32-14/15 Proclamation Honoring Timothy Fuller, Health & Human Services Department, Public Health Division, as Employee of the Month for May 2015 – Sponsored by Mayor Michael F. Brennan.

Proc 33-14/15 Proclamation Honoring Officer Evan Bomba as Police Officer of the Month for April 2015 – Sponsored by Mayor Michael F. Brennan

Proc 34-14/15 Proclamation Honoring Arbor Week May 17-23 – Sponsored by Mayor Michael F. Brennan.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to take up a un-agenda item. Passage 9-0.

Proc 35 – 14/15 National Police Week May 10-16, 2015 – Sponsored by Mayor Michael F. Brennan.

APPOINTMENTS:

IN COUNCIL REGULAR MEETING MAY 18, 2015 VOL. 130 PAGE 91

Order 252A-14/15 Order Appointing Constables for 2015 Re: Department of Public Services – Sponsored by Michael J. Sauschuck, Acting City Manger.

Motion was made by Councilor Costa and seconded by Councilor Suslovic for passage as an emergency. Passage 9-0.

Order 253-14/15 Order Appointing Constables Re: Department of Public Safety – Sponsored by Michael J. Sauschuck, Acting City Manager.

Motion was made by Councilor Costa and seconded by Councilor Donoghue for passage as an emergency. Passage 9-0.

CONSENT ITEMS:

LICENSES:

COMMUNICATIONS:

RESOLUTIONS:

ORDERS:

Order 254-14/15 Order Approving Amended and Restated Lease Agreement with Nova Star Cruises Limited – Sponsored by the Housing and Community Development Committee (HCDC), Councilor Kevin J. Donoghue, Chair.

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

UNFINISHED BUSINESS:

Councilor Marshal recused himself his wife works for Preble Street Shelter, an organization that is requesting CDBG funding.

Order 233B-14/15 Order Approving Annual Adjustments to the Community Development Block Grant (CDBG) Allocation Process – Sponsored by the Housing and Community Development Committee, Councilor Kevin J. Donoghue, Chair.

Motion was made by Councilor Donoghue and seconded by Councilor Mavodones to postpone Order 233 B to the Sept. 21, 2015 City Council meeting. Passage 8-0, (Councilor Marshall recused himself.)

BUDGET ITEMS:

Motion was made by Councilor Duson and seconded by Councilor Suslovic to suspend Council Rules to allow public comment before postponing the Budget items. Passage 8-1, (Brennan)

Order 234-14/15 Order Authorizing Fiscal Year 2016 Administrative Fees in Various Departments - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was postponed on May 4, 2015.

Motion was made by Councilor Hinck and seconded by Councilor Donoghue to postpone Order 234 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

Order 235-14/15 Order Authorizing Increase in Trash Bag Fee - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was postponed on May 4, 2015.

Motion was made by Councilor Duson and seconded by Councilor Suslovic to postpone Order 235 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones) .

Order 236-14/15 Order Authorizing City Manager or Acting City Manager to Enter into Certain Agreements to Implement the Fiscal Year 2016 Human Resources and Certain Fringe Benefits Budgets - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone Order 236 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

Order 237-14/15 Order Re: Self-Insured Liability Program - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was postponed in May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone Order 237 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones) .

IN COUNCIL REGULAR MEETING MAY 18, 2015 VOL. 130 PAGE 93

Order 238-14/15 Order Authorizing City Manager or Acting City Manager to Enter into Certain Agreements to Implement Fiscal Year 2016 Health and Human Services Budget - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair. This item was given first reading on May 4, 2014.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone Order 238 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

Order 239-14/15 Order Authorizing City Manager or Acting City Manager to Accept Scholarship Trust Donations and Enter into Trust Agreements - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair. This item was postponed on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone Order 239 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

Order 240-14/15 Order Authorizing Corporation Counsel to Undertake Civil Actions to Collect Delinquent Personal Property Taxes - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair. This item was postponed on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone Order 240 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones) .

Order 241-14/15 Order Authorizing Non-Union Wage Adjustment - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone Order 241 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones) .

Order 242-14/15 Order Designating Fiscal Year 2016 Funds for Specific Island Services - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone Order 242 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

Order 243-14/15 Order for Fiscal Year 2016 Appropriating \$200,000 from Excess Fund for Casco Bay Transit District - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Duson to postpone Order 243 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones) .

RELATED ORDINANCE AMENDMENTS:

Order 244-14/15 Amendment to Portland City Code Chapter 5 (Animals & Fowl) Article VI. Keeping of Domesticated Chickens, Section 401(b) Re: Chicken Permit Annual Fee - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Costa to postpone Order 244 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

Order 245-14/15 Amendment to Portland City Code Chapter 10. Fire Prevention and Protection Article II - Fire Code, Section 10-18 Re: Fire Permit Fees - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Costa to postpone Order 245 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

Order 246-14/15 Amendment to Portland City Code Chapter 15 (Licenses and Permits*), Article I Section 15-12 Re: Fees and Reorganization - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Chair. This item was given first reading on May 4, 2015.

IN COUNCIL REGULAR MEETING MAY 18, 2015 VOL. 130 PAGE 95

Motion was made by Councilor Suslovic and seconded by Councilor Costa to postpone Order 246 to the June 1, 2015 City Council meeting. Passage 6-3, (Benerman, Brennan, Mavodones).

Order 247-14/15 Amendment to Portland City Code Chapter 25, Article II. Division 2 Permits Re: Street and Sidewalk Occupancy Permit - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Hinck to postpone Order 247 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

Order 248-14/15 Amendment to Portland City Code Chapter 28 (Traffic and Motor Vehicles) Article VII. Re: Valet Parking Fees; exceptions - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Costa to postpone Order 248 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

Order 249-14/15 Amendment to Portland City Code Chapter 25, Article VII. Excavations, Section 25-119 Re: Excavators License Fee - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Costa to postpone Order 249 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

Order 250-14/15 Amendment to Portland City Code Chapter 24 Sewers Article IV. Jr., Chair. This item was given first reading on May 4, 2015.

Motion was made by Councilor Suslovic and seconded by Councilor Costa to postpone Order 250 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

APPROPRIATION RESOLVE:

Order 251-14/15 **Fiscal Year 2015-2016 Appropriation Resolve - Sponsored by the Finance Committee, Councilor Nicholas M. Mavodones, Jr., Chair. This item was given first reading on May 4, 2015.**

Motion was made by Councilor Suslovic and seconded by Councilor Costa to postpone Order 251 to the June 1, 2015 City Council meeting. Passage 6-3, (Brenerman, Brennan, Mavodones).

AMENDMENTS:

Order 255-14/15 **Amendment to Portland City Code Chapter 7 (Cemeteries) Article I. to VII. Re: Update to Cemetery Ordinance- Sponsored by Michael J. Sauschuck, Acting City Manager.**
This is a first reading.

Order 256-14/15 **Amendment to Portland City Code Chapter 14. Land Use Article III. Zoning Division 17 Re: Drive-in Banks in the B-7 Zone - Sponsored by the Planning Board, Stuart O'Brien, Chair.**
This is its first reading.

Motion was made by Councilor Marshall and seconded by Councilor Costa to adjourn. Passage 9-0, at 9:45 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

Order 184-14/15
Tab 3-6/1/15

ADDITIONAL

PUBLIC

COMMENT

58 FORE STREET

May 28, 2015

Re: Rezoning of 58 Fore Street

Dear Mayor Michael Brennan and City Councilors:

On February 24, the day of the Planning Board Public Hearing on 58 Fore Street, a Munjoy Hill resident found 2004 Building Height Study documents in Planning Department files in which building heights at the Portland Company site were strictly measured from 2 feet above floodplain. Since then, audio and video tapes of the Planning Board and Council meetings of 2004 prove that both the Planning Board and Council worked to incorporate into the Comprehensive Plan specific height limitations, tied to floodplain based upon National Geodetic Vertical Datum. According to 2004 Planning Department documents, the Building Height Study provides [QUOTE] "graphic specificity to the Master Plan as the foundation of an enforceable regulatory framework" [END QUOTE. O:\PLAN\WATFRNT\Planning Board\PBR 37-04,B-6, 9-14-04.doc ; p.8]

This was done expressly to preserve the panoramic harbor views and the connection between the neighborhood and the waterfront.

For decades Portland's governing bodies have deliberately sustained the unique relationship between residents and the City's waterfront.

The 1983 Portland Waterfront Public Access Design Project identified the panoramas from street level along upper Fore as exceptional assets, visually connecting with the harbor the thousands of people who daily drive and walk there.

The authors warn of taking public access for granted, and argue that the public's connection with the waterfront will [QUOTE] "become increasingly importantfor the well being of the City." [END QUOTE. Portland Waterfront Public Access Design Project; p.3]

In 1987 Portlanders overwhelmingly passed the working waterfront referendum.

In 2004 after years of work by residents and City officials, the Eastern Waterfront Master Plan. Measurement of buildings from 2 feet above floodplain was used to provide specificity in protecting the neighborhood's connection with the harbor.

Now I'd like to briefly address the relationship between City government and its residents.

First, thank you and the Planning Board for all the time and effort given, without monetary compensation, for the welfare of the City.

However, the City needs to govern from standards of truthfulness and transparency.

In recent months, I have felt dismayed to hear City employees argue for the developer, using legal technicalities to refute the decisions of the 2004 Planning Board and City Council. We learned that we, as residents, need our own attorneys to have a fighting chance in this debate.

Further, the lack of a site plan has severely compromised neighborhood participation. What, specifically, are we supposed to address?

The Portland Company sits on 10 ½ acres, the equivalent of 8 football fields, on the waterfront of this vibrant city. This should be a developer's dream. The precipitous drop along upper Fore Street allows for buildings up to six stories high without blocking public views.

However, if you allow three more stories above street grade on upper Fore, I estimate that would enable an additional 18 condominium units. You would be taking away the panoramas from more than 4,000 residents and visitors who pass this area daily, and giving them to 40 very wealthy people; another gift to the 1 percent at a distinct cost to the public.

The City should have a win-win. I ask that you respect Portland's residents and preserve the views for all. Please clarify the use of floodplain for measuring building heights.

Sincerely,

Brian Burwell
Owner, 31 Fore Street

Judith Rosen - Fwd: Please vote tonight to grant a zoning change for the Portland Company site development

From: Christine Grimando
To: Rosen, Judith
Date: 5/27/2015 2:00 PM
Subject: Fwd: Please vote tonight to grant a zoning change for the Portland Company site development

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> Jenny Potter Scheu <jpscheu@gwi.net> 4/6/2015 5:28 PM >>>

Dear Mayor Brennan and members of the Portland City Council,

I am writing to ask each of you to vote tonight to support a zoning change for the Portland Company site. And, kudos to the Planning staff members, especially Christine Grimando, for reviewing the project site issues with you last week ..and we of the (silent that night) public.

I have lived on Munjoy Hill for almost fifteen of my thirty years in Portland. I live one block from the Portland Company site, and walk through the site several times every day as I walk to and from work. I am excited about the proposed development there, and the big improvements that it will bring to our neighborhood and our city.

I also walk along Fore Street from our house on Waterville Street to Fort Allen Park every day. The railing and chain link fence I pass are usually clogged with blown trash, and in summer, the views at the pedestrian level are obscured by dense weeds. Once past that fence, the views start to open up between houses, and are then fully open, broad, and glorious at the Portland House, and then at Fort Allen Park and beyond.

I think that the proposed new buildings along Fore Street, will bring life to the neighborhood, and the building breaks at the Waterville, St. Lawrence, and Atlantic streets will allow new views, and possible new access through the development to the wonderful (and already well protected) waterfront trail. These are all very positive additions to the Munjoy Hill neighborhood fabric.

Four years ago we built our three family house at 29 Waterville Street, a project which conformed to all existing zoning standards. Our project blocked the views of two neighbors, and the City clearly ruled that the streets of our neighborhood are the view corridors of our neighborhood. We are all aware that as the city grows more densely, our own views will change dramatically. We understand well that this is the nature of urban development. And, we always know that we only need to walk two blocks toward Fort Allen Park to find a mile of glorious Eastern Promenade views, or head toward the working waterfront for a range of very different views and experiences.

I have worked in Portland as a sole practitioner architect for the past thirty years. I have been pleased to see many good changes come to the city over these years. But there have been many ugly and/or inappropriate projects built as well. All that I have seen of the Portland Company development project to date has been well conceived, and based on high quality experience and hard work. They are, and will be, a smart well informed development group to work with. They understand that this is a very special site, and understand that that the history of The Portland Company and public access are important to Portland citizens and visitors.

I do not agree with much in the soulofportland.org website, and I especially do not care for their alarming, inflammatory, misleading, and negative flyers which have been posted in our Munjoy Hill neighborhood. I do not agree with the NO BLANK CHECK buttons being sported by some citizens. I would prefer to be positive. Good development which works for all is hard work, and is always a give and take proposition, not a shouting match. Let's roll up sleeves, talk, listen, and work hard with these developers to make this project as full of benefits to the city as we can, including new housing for the city's workforce.

With new development comes change. I understand that most would prefer not to have any changes to this site. I am confident that the changes proposed will be positive additions to our city, with new citizens and neighbors, new businesses and jobs, and new and beautiful vistas. Please vote for the zoning changes which will move this exciting project forward.

Thank you,
JENNY P. SCHEU
207-773-8681
home: 29 Waterville Street, Unit 3, Portland ME 04101
work: Redhouse Architects, 61 Pleasant Street, Portland ME 04101

Judith Rosen - Fwd: 58 Fore Street: City Council Meeting April 6th - Letter of Support

From: Christine Grimando
To: Rosen, Judith
Date: 5/27/2015 1:58 PM
Subject: Fwd: 58 Fore Street: City Council Meeting April 6th - Letter of Support

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> Connor Yost <connor@opuscg.com> 4/3/2015 11:29 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.

Sincerely,

Connor Yost

Opus Consulting Group
130 Middle St. 2nd Fl | Portland, ME 04101
O: 207.619.1899 | C: 207.319.8283

Judith Rosen - Fwd: FORE STREET

From: Christine Grimando
To: Rosen, Judith
Date: 5/27/2015 1:59 PM
Subject: Fwd: FORE STREET

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> Sandra Ricker <RICKES1@mmc.org> 4/6/2015 8:39 AM >>>

April 1, 2015

Dear Mayor and City Council,

The 58 Fore Street property is an amazing opportunity to revitalize an underutilized portion of Portland's waterfront. 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 desperately needs a portion of the waterfront where people can enjoy being on the water and next to it. 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. I appreciate you taking the time to review my letter.

Judith Rosen - Fwd: CPB2 zoning approval support

From: Christine Grimando
To: Rosen, Judith
Date: 5/27/2015 1:59 PM
Subject: Fwd: CPB2 zoning approval support

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> Andrew Wood <andrew@opuscg.com> 4/6/2015 9:28 AM >>>
Dear Honorable Mayor Brennan and Portland City Council,

As a resident of Munjoy Hill and someone who cares very much about the future of this city we live in, 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.

Portland is an amazing city to live in, and in order for the city to continue to provide opportunity and amenities for its residents, we need to embrace economic growth possibilities that fit within the look and feel of Portland. Many other sea-side cities have experienced positive development and growth in the recent number of years by improving their waterfronts. This piece of property, and this redevelopment, is Portland's opportunity to do the same.

It's very important that the city supports the rezoning of the site as proposed by the CPB2 team.

I believe it's important that both the city council and community focus on the following points. First and foremost, this was a unanimous Planning Board recommendation, after a long public process where all interested parties' concerns were considered. In addition, the property owners' vision is entirely in keeping with the Comprehensive Plan.

Approving the zone change will open the door to a future development that will benefit the neighborhood and entire city in major ways; greater public access to the Eastern Prom Trail and to the waterfront, a major increase in desperately needed housing stock, and a major increase in property tax revenue to the city.

I respectfully believe this is a unique and tremendous opportunity for the residents of the city of Portland. As a result, I strongly encourage you and the council to approve the CPB2 rezoning application.

Andrew Wood
Munjoy Hill Resident

O: [207.619.1899](tel:207.619.1899) | C: [207.956.1484](tel:207.956.1484)

Judith Rosen - Fwd: Re: Public Comment for City Council - 6 April meeting on 58 Fore Street

From: Christine Grimando
To: Rosen, Judith
Date: 5/27/2015 2:00 PM
Subject: Fwd: Re: Public Comment for City Council - 6 April meeting on 58 Fore Street
Attachments: MHNO Letter re 58 Fore Street 040115.pdf

Christine Grimando, AICP
Senior Planner
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Ph: (207) 874-8608

>>> Matthew Kennedy <matthew.kennedy@munjoyhill.org> 4/6/2015 4:22 PM >>>
Ms. Grimando,

On 1 April Andrea Myhaver, the President of the Munjoy Hill Neighborhood Organization, forwarded the attached letter concerning 58 Fore Street to the Mayor and City Councilors. When the packet for tonight's meeting was first uploaded I noticed that our letter was not included among the public comment on 58 Fore Street. Ms. Judith Rosen at City Hall had advised me to send the letter to her so that she could ensure it was placed in the packet, which I did on 4 April. However, I've just skimmed the recently updated packet and again didn't see our letter.

At this late hour it's not important that it be uploaded -- the Mayor and Councilors have seen it, after all. But if not too late it would be great if we could get it included in the public record of this matter.

Thanks very much for all of your efforts regarding the proposed 58 Fore Street redevelopment.

Regards,

Matthew Kennedy
Treasurer, MHNO

On Sat, Apr 4, 2015 at 1:45 PM, Matthew Kennedy <matthew.kennedy@munjoyhill.org> wrote:
Ms. Rosen,

I am on the board of the Munjoy Hill Neighborhood Organization. On behalf of the Board, I would like to submit the attached as public comment to the April 6 City Council hearing on the rezoning of 58 Fore Street. This same letter was sent directly by the Board President Andrea Myhaver to the Mayor and Counselors, but as far as I can tell it has not yet been incorporated into the meeting packet. We would appreciate it if you could



To: The Honorable Mayor Michael Brennan
Members of the City Council
From: Munjoy Hill Neighborhood Organization Board of Directors
Re: 58 Fore Street Redevelopment

April 1, 2015

Dear Mayor Brennan and Members of the City Council:

For over 35 years, the Munjoy Hill Neighborhood Organization has provided leadership and voice for its members and all Munjoy Hill residents on matters that build community and affect the quality of life on Munjoy Hill. In keeping with this mission, the MHNO board has worked to ensure that our members and neighbors are informed regarding the 58 Fore Street redevelopment project. We have published articles on the project in our monthly newspaper, the Observer, and we have publicized, via various channels, the places where our members can find additional information, such as the city's website, the developer's website, and the website of the advocacy group Soul of Portland. Recently the MHNO board has held the first of two scheduled meetings with representatives of Soul of Portland, and we have also scheduled a meeting with the representatives from CPB2 LLC.

On March 23 the MHNO issued an on-line survey to its members in an effort to gauge sentiment regarding the current phase of the redevelopment proposal (the proposed rezoning) and to assess general levels of understanding regarding both the proposal and the process. The survey was distributed to 106 members for whom we had email addresses; we received 54 unique member responses, a response rate of slightly over 50%. Not all respondents answered all questions.

The survey's core question asked "What is your opinion on the proposed zoning map changes and text amendments?" Respondents were able to choose one of the following six answers: strong support; support; no opinion; opposition; strong opposition; or "I have questions and want more information."

Nine respondents, or 17% of the total, provided this last answer – “I have questions and want more information.”

Setting aside this group and focusing on the subset that indicated a specific sentiment (including “no opinion”), the results indicate that views are fairly evenly divided regarding the proposed rezoning:

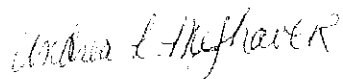
- **Eighteen respondents, or about 41%, indicated some measure of support for the proposed rezoning and text amendments (that is, “support” or “strong support”).**
- **Twenty-one respondents, or about 48%, indicated some measure of opposition to the proposed rezoning and text amendments (that is, “oppose” or “strongly oppose”).**
- **Five respondents, or a bit over 11%, had no opinion.**

The survey also allowed respondents to ask questions or provide comments. Not surprisingly, these generally reflect the divided opinion captured by the sentiment question. In many instances these questions and comments range beyond the matter currently before the Council. Some recurring themes are:

- Desire to ensure public access to the site and waterfront; permeability through the site; open spaces for public use.
- Need for affordable housing. One respondent proposes a trade off with the developers: building above the Fore Street grade in exchange for affordable units.
- Concern about the potential height of buildings along Fore Street; advocacy for flood plain versus average grade height determination. As one respondent writes, “height is the big fear.”
- Belief that opposition to the development reflects a “NIMBY” reflex that stands in the way of positive change.
- Enthusiasm for a vibrant, mixed-use, 24/7 development. One respondent styles this “a wonderful opportunity to use private investment dollars to realize the public’s vision” as expressed in the Comprehensive Plan.
- Concern for preservation of the historic structures; a desire to see the historic preservation process completed before rezoning considered.

In some instances these responses evinced some misunderstanding of the scope and nature of the project. MHNO will continue its efforts to keep our members and neighbors apprised and informed so that they are in the best possible position to accurately evaluate the potential impact of this development proposal on Munjoy Hill.

Sincerely,

A handwritten signature in cursive script, reading "Andrea L. Myhaver".

Andrea Myhaver
President, Munjoy Hill Neighborhood Organization
On Behalf of the Board

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 184-14/15
~~Tab 16 3-16-15~~
~~Tab 28 4-6-15~~
Tab 3 6-1-15

**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;
 198. 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;~~

~~e. 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'Brion 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 (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

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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.
- ...

**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*

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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.

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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)				
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, 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

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.

...

**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:

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*

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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

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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)				
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Residential(d)	A	A	A	A
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Building	A	A	A	A
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Marquee(g)	B	B	B	B
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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
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. . .

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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.

. . .

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.

...

**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

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	
		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

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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
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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>

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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.

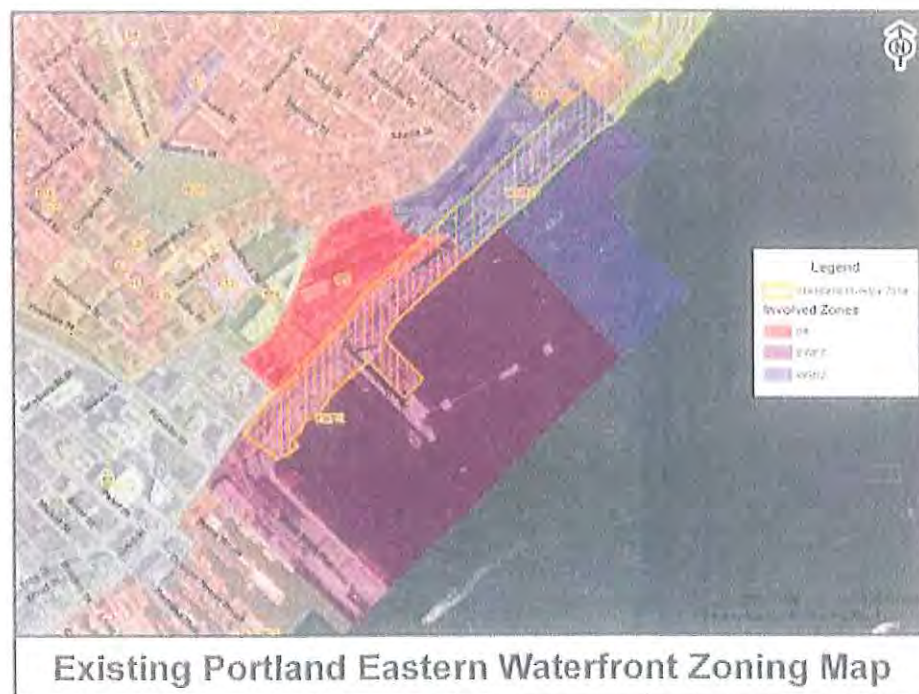


Figure 12, Existing Zoning

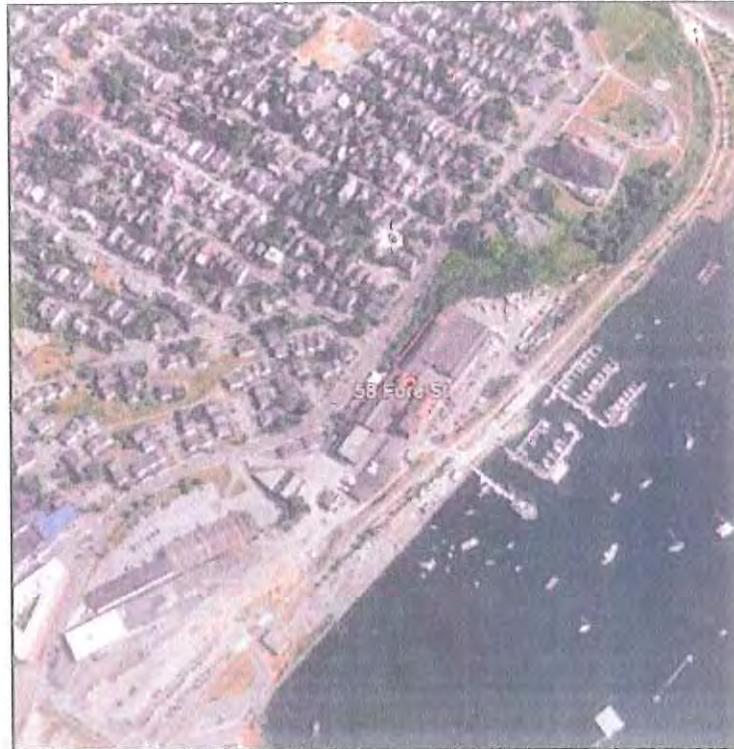


Figure 23, Aerial View of 58 Fore Street

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

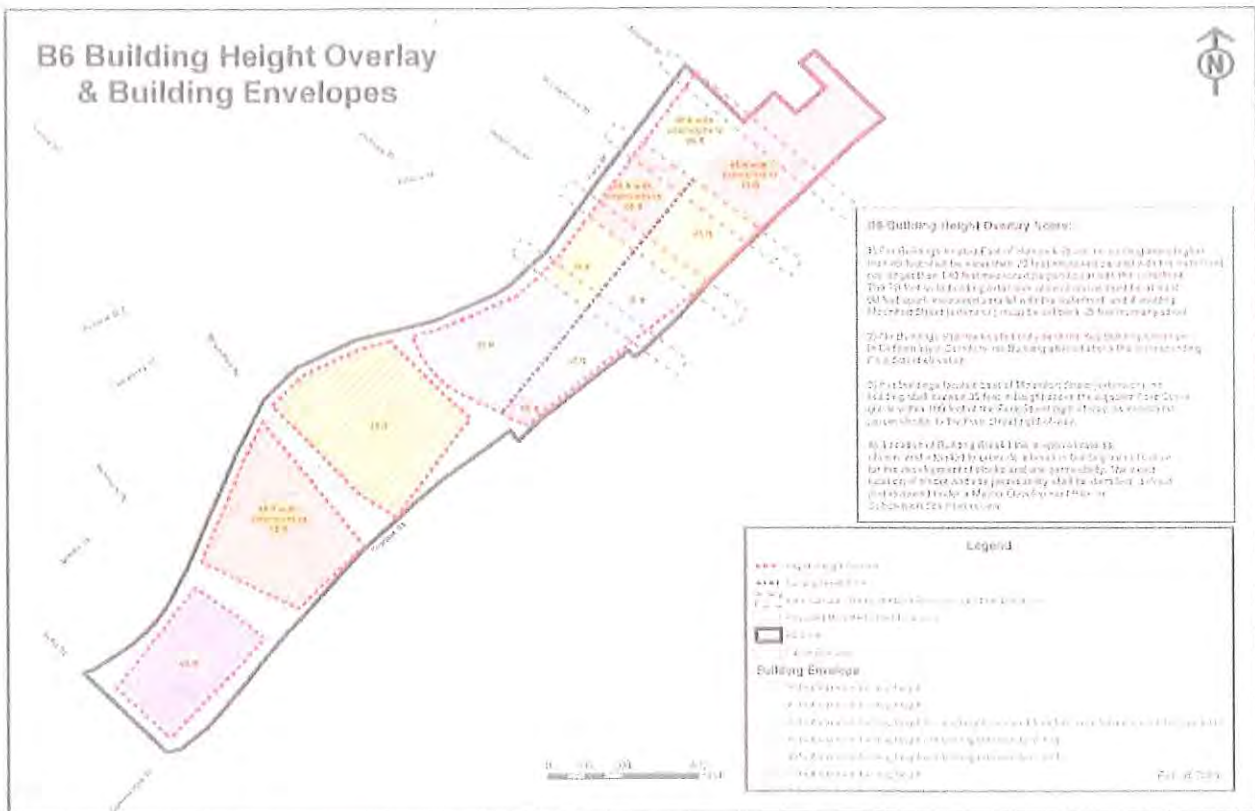


Figure 45, Proposed B6 Building Height Overlay & Building Envelopes

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:

- Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
- Educational facilities.
- 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.
- Museums and art galleries.
- 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.

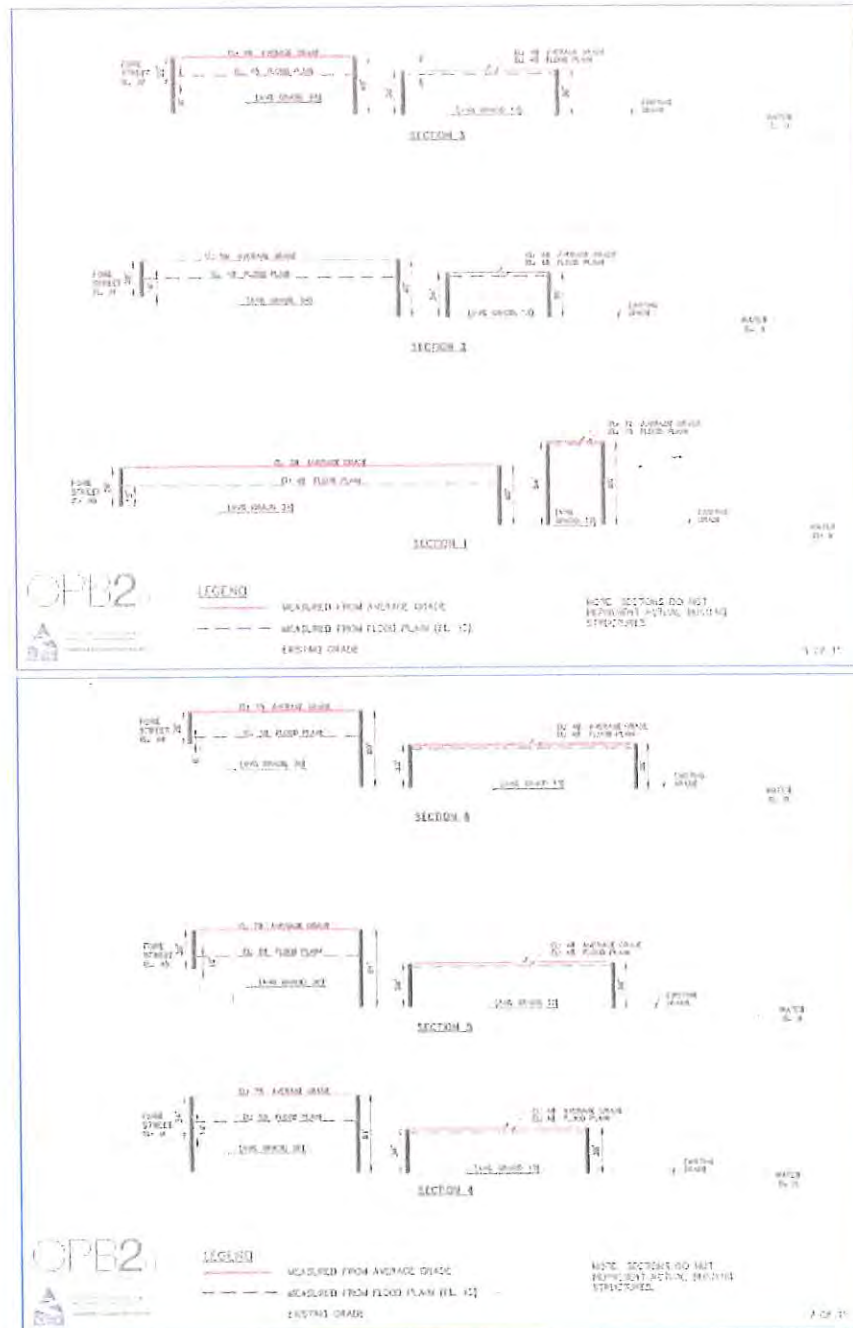
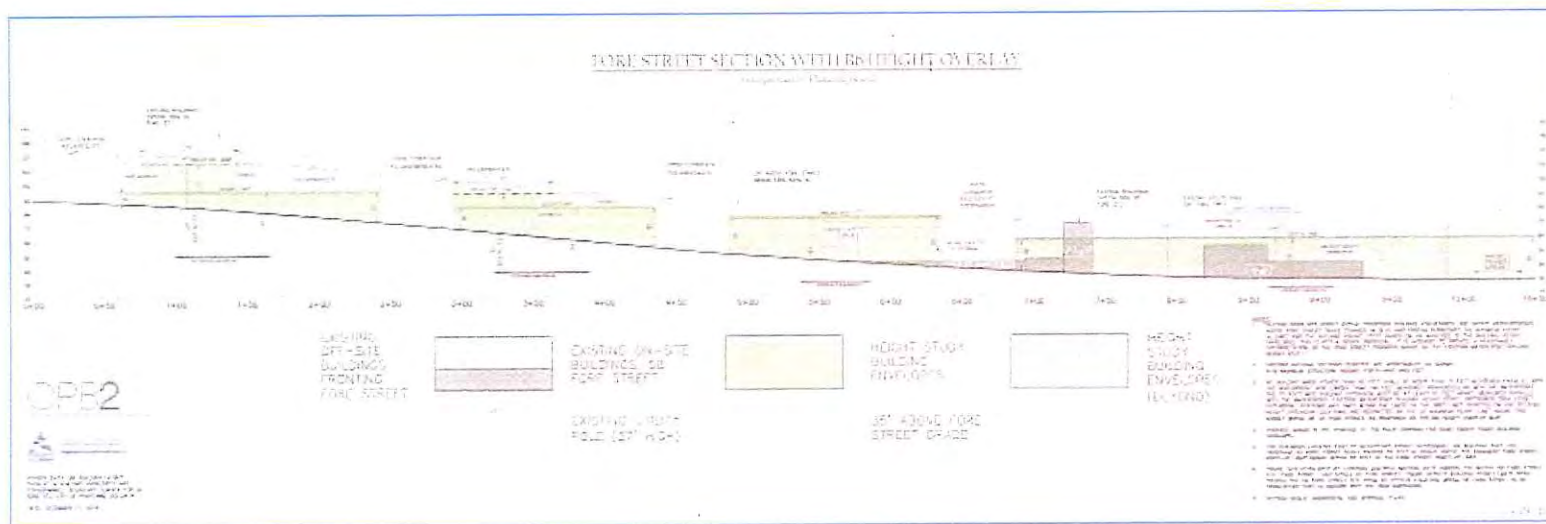


Figure 68

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.

Figure 79



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.

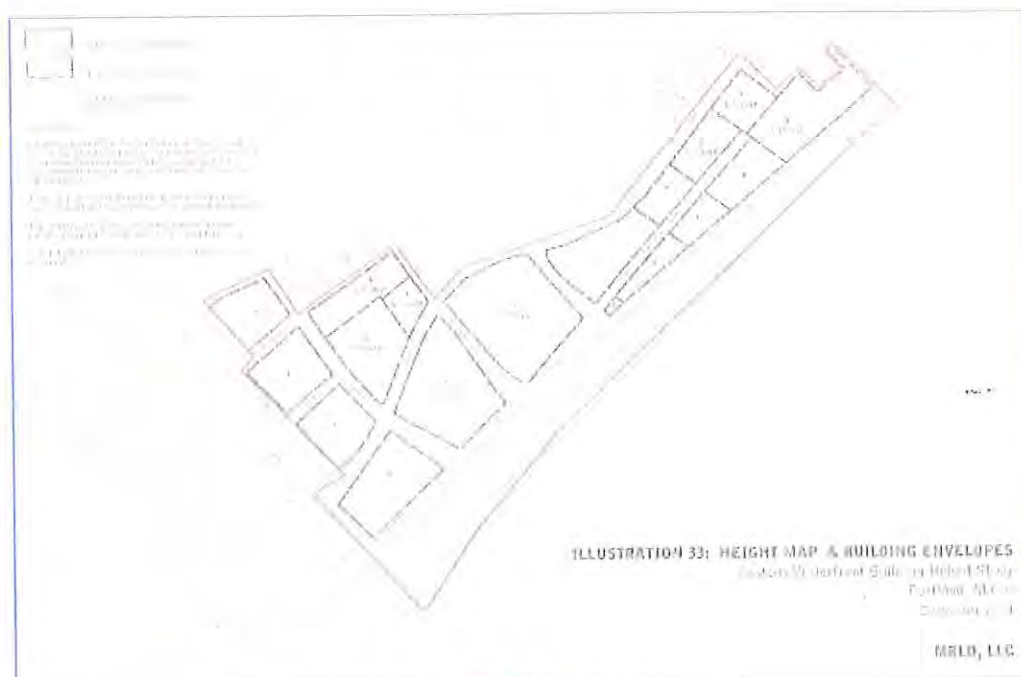


Figure 37, Illustration 33

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 PC1 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.

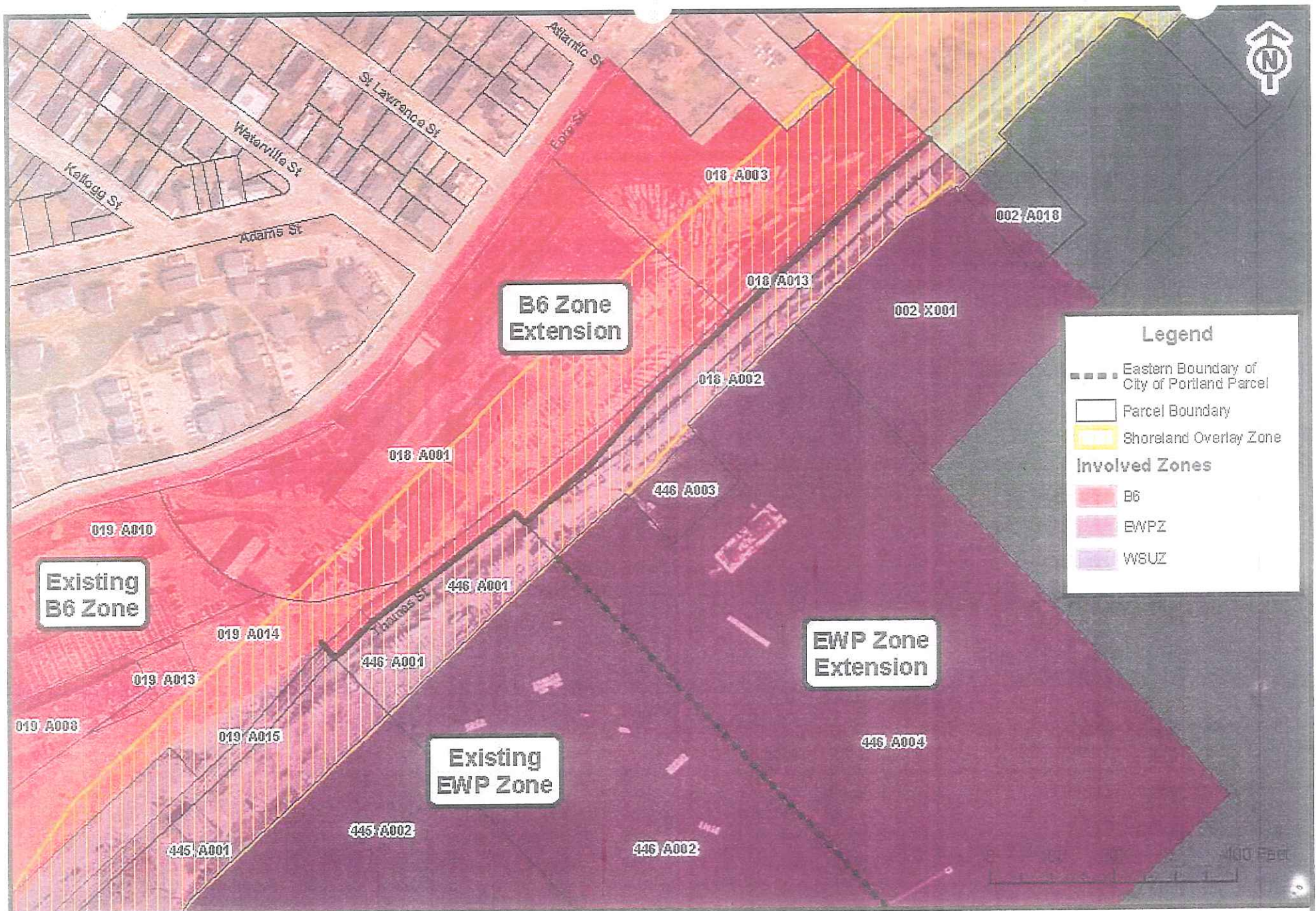
IX. ATTACHMENTS

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 1st & 2nd



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;

19. 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 ~~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.

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. 160-93, 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. 168-93, § 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:~~

~~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~~

~~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;~~

~~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. 168 93, § 2, 1-4-93; Ord No. 187 99, 1-4-99; Ord. No. 33 11/12, 1-19-12)~~

~~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. 169 02, § 2, 1-4-02; 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.~~

- ~~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. 169-93, § 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, 1989, 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 decking 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.

Sec. 14-301.1. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the Eastern Waterfront Port Zone, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority, and provided further that in addition to the provision of section 14-474(c)(2) such uses will not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and meet all additional standards set forth below:

1. Conditional use standard:

a. *Marine compatibility:* The proposed use shall be compatible with existing and potential marine uses in the vicinity, as required by section 14-304(n) and (o) (compatibility of non-marine uses with marine uses and functional utility of piers and access to the water's edge); and

b. *Parking and traffic circulation:*

i. *Parking and traffic circulation plan:* All applications for conditional use in the EWPZ shall submit a parking and circulation plan for review and approval by the planning board. The parking and circulation plan shall show the location of all existing and proposed structures, travel ways and parking under the common ownership and/or control of the subject pier or property. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the EWPZ.

2. Conditional uses:

a. *Marine:*

i. Marine products, wholesaling and retailing;

- ii. Ice-making services;
- iii. Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight;
- iv. Marine educational facilities;
- v. Seafood retailing, wholesaling, packaging and shipping;
- vi. Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304;
- vii. Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing;
- viii. Fish byproducts processing, provided that:
 - a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
 - b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-

252); and

- c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.
- b. *Commercial:*
 - a. Structured parking available to the general public;
 - b. Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006;
 - c. Passenger support services supporting a marine passenger use listed under 14-301(a) (marine passenger). The total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principle associated marine passenger use and no more than 35,000 square feet cumulative within the EWPZ:
 - i. Retail;
 - ii. Restaurants/food service other than street vendors;
 - iii. Retail service;
 - iv. Passenger information services.
- c. *Industrial:* The following industrial uses are permitted provided that such uses shall conform to the IM zone performance standards set forth in section 14-252 in addition to the performance standards of 14-304. Where redundant or contradictory performance standards exist, the more restrictive standard applies.
 - i. Non-marine related warehousing in structures existing as of September 18, 2006;

ii. Facilities for combined marine and general construction;

iii. Low impact industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities.

d. *Public:*

i. *Utility substations:* Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps and telecommunication switching stations, are permitted under the following conditions:

- a. The facility is located more than 100 feet from the water's edge;
- b. The facility occupies no more than 50 square feet of structure above ground;
- c. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise useable and made available for marine related uses, including but not limited to parking, travel ways, and/or storage; and
- d. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.

ii. Maritime museums, limited to 5,000 square feet of ground floor footprint.

*Editor's Note-On-site parking for non-marine commercial and industrial uses are permitted as conditional uses subject to the provisions of section 14-301.1. (conditional uses, parking) below.

- e. *Parking for non-marine uses:* Notwithstanding sections 14-304(h), 14-331, 14-334 (regarding off-street parking requirements) and article V (site plan) of this chapter, no parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water-dependent uses that are permitted by section 14-301 (permitted marine uses) and 14-301.1. (conditional marine uses) which are or may be located on the subject property (see editor's note below). The remainder of parking Required, if any, for such non-marine uses shall be provided off-site.

*Editor's Note-Vacant ground floor space should be considered to have a parking demand similar to other space housing an existing water-dependent use elsewhere on the subject property or on a comparable property.

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. 320.2(c))~~.

For the principle structures, setback measurements shall be taken from the top of a costal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant "Classification of Coastal Bluffs", and published in the most recent Coastal Bluff Map as further referenced on the Zoning Map.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28)

feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, EWP, W-C, W-PD, ~~W-SU~~, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

- (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.

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)				
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, ~~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

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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.

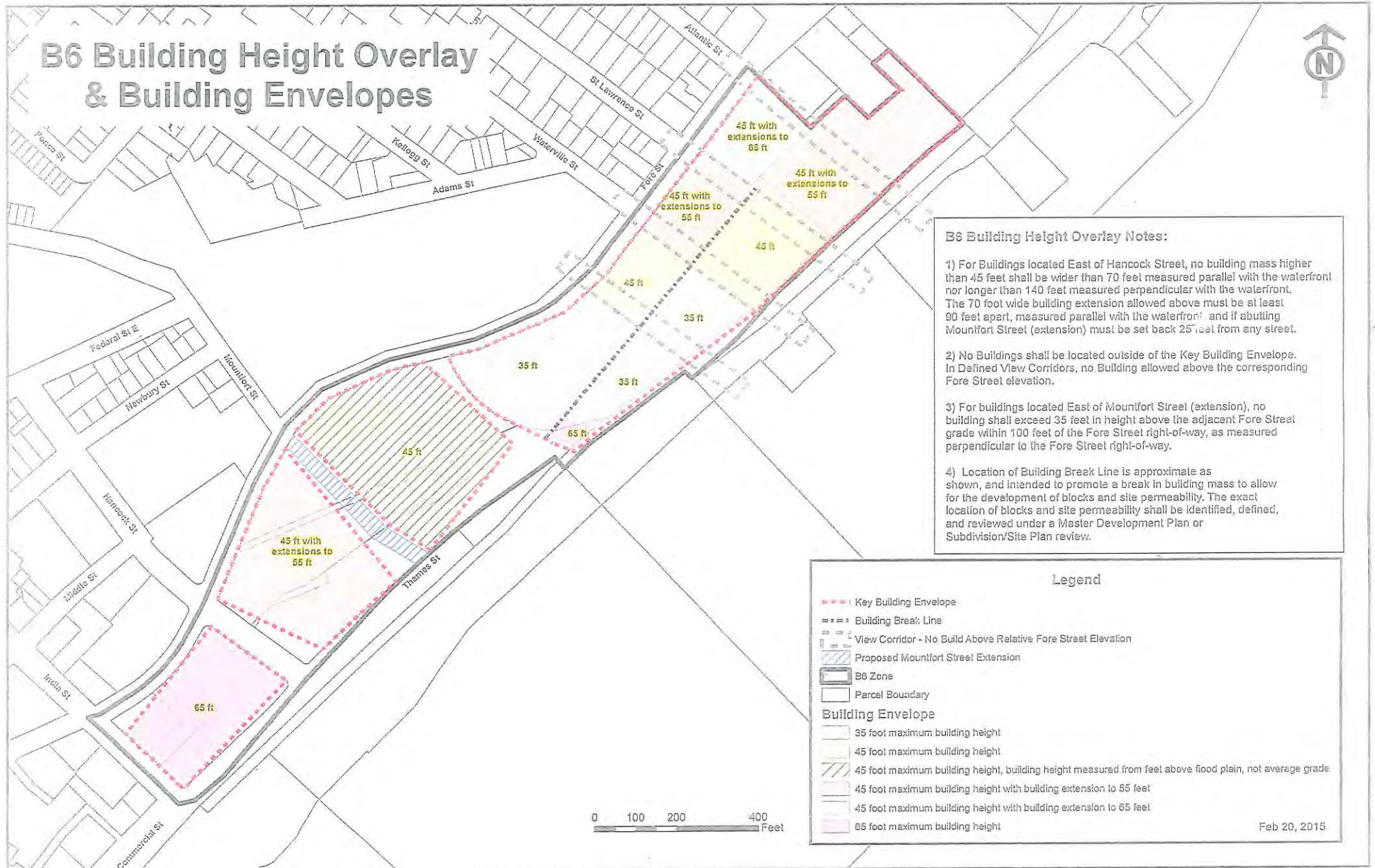
14-526(d) *Site Design Standards*

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:

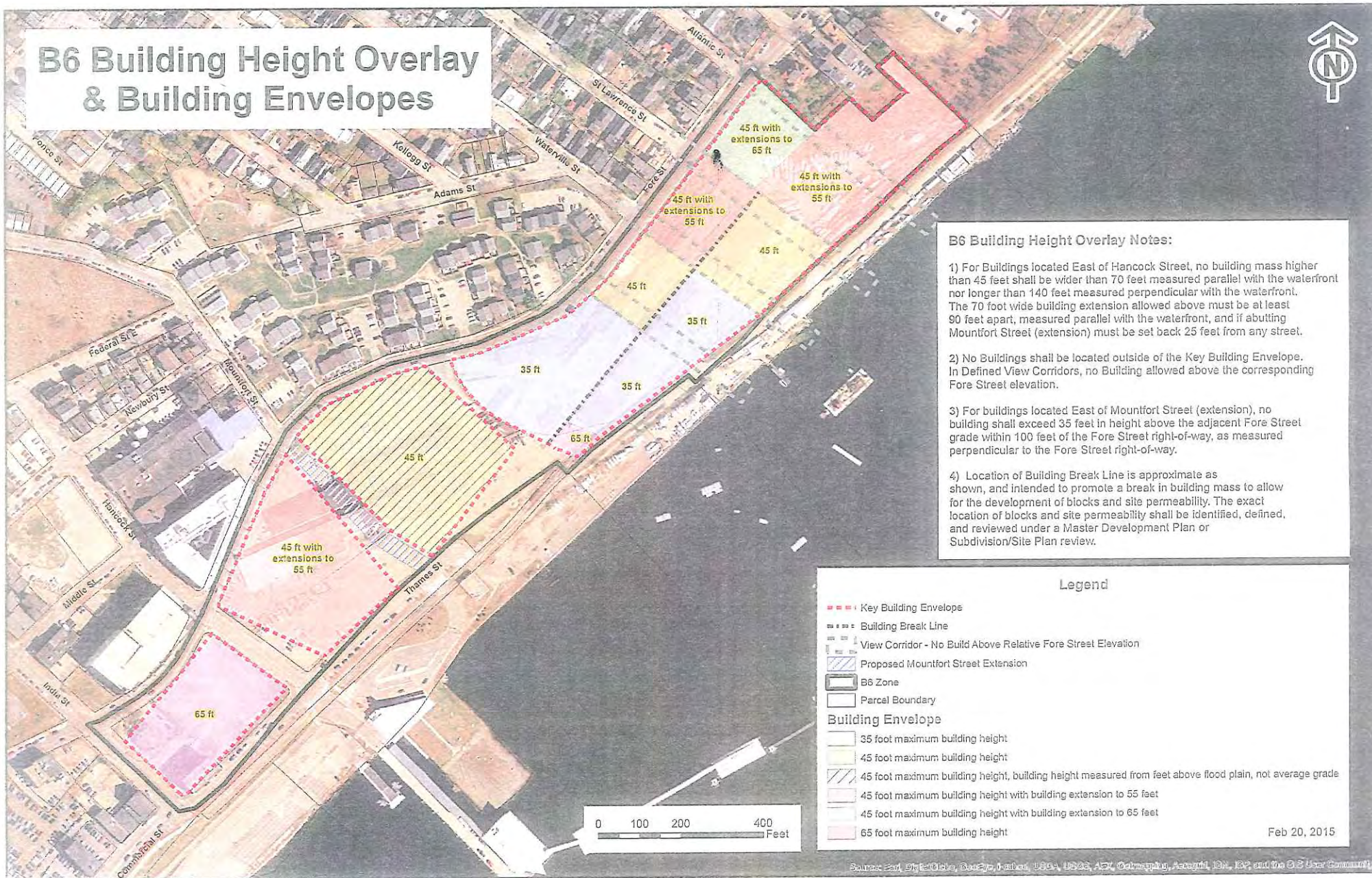
- 1) For Buildings located East of Hancock Street, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70 foot wide building extension allowed above must be at least 90 feet apart, 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

Source: San, DigitalGlobe, GeoEye, Earthstar, USGS, USDA, AEX, GeoEye, AeroGRID, IGN, E* and the US User Community

**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.

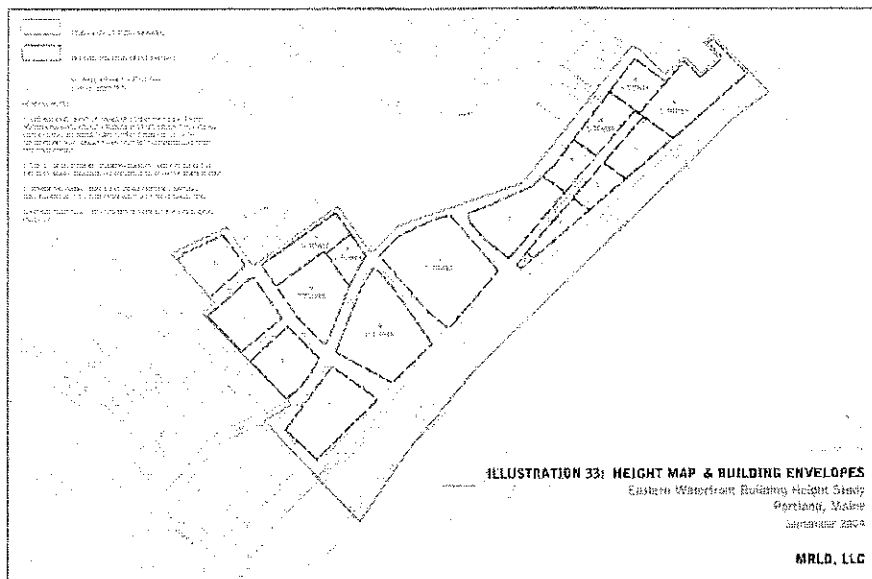


Figure 1, Illustration 33 as the record shows it was adopted, dated September 2004

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.

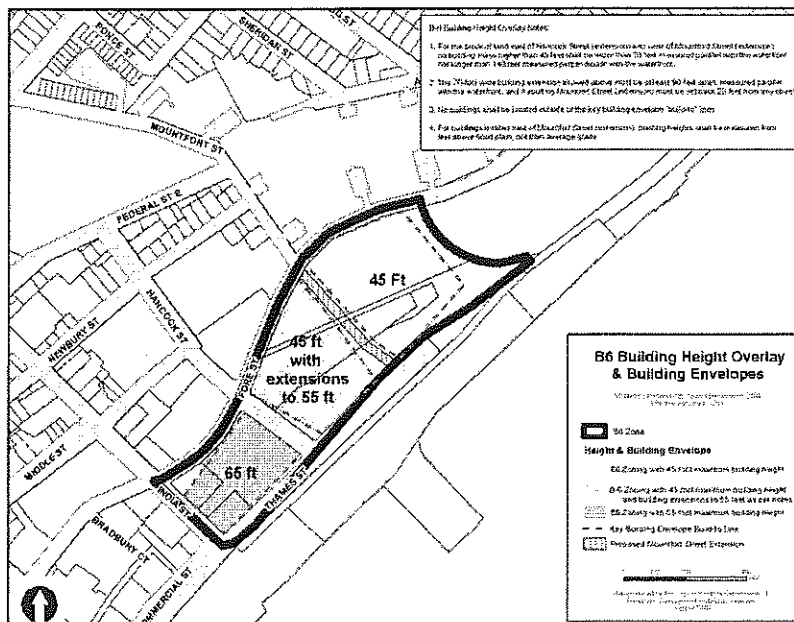


Figure 2, Current B-6 Height Overlay Zoning Map

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

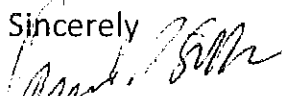
Page 4

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

**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.

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DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

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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:

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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).

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Sec. 14-273. Performance standards.

All new development in the B-6 Eastern Waterfront Business Zone shall comply with the following standards:

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- (b) *Noise:*

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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.

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DIVISION 17.5. EASTERN WATERFRONT PORT ZONE*

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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.

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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:

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(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.

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Sec. 14-303. Dimensional requirements.

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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).

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DIVISION 18.7. RESERVED

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DIVISION 22. SIGNS

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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)				
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, 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

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.

**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:

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*

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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).

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DIVISION 18.7. RESERVED

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DIVISION 22. SIGNS

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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

. . . .

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2.1 Sign Regulations for R-1-R-7, IR-1-IR-3 Residential Zones

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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.

...

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.

...

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

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

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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/	D/D	B/D	D	D
Portable (b)				
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

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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.

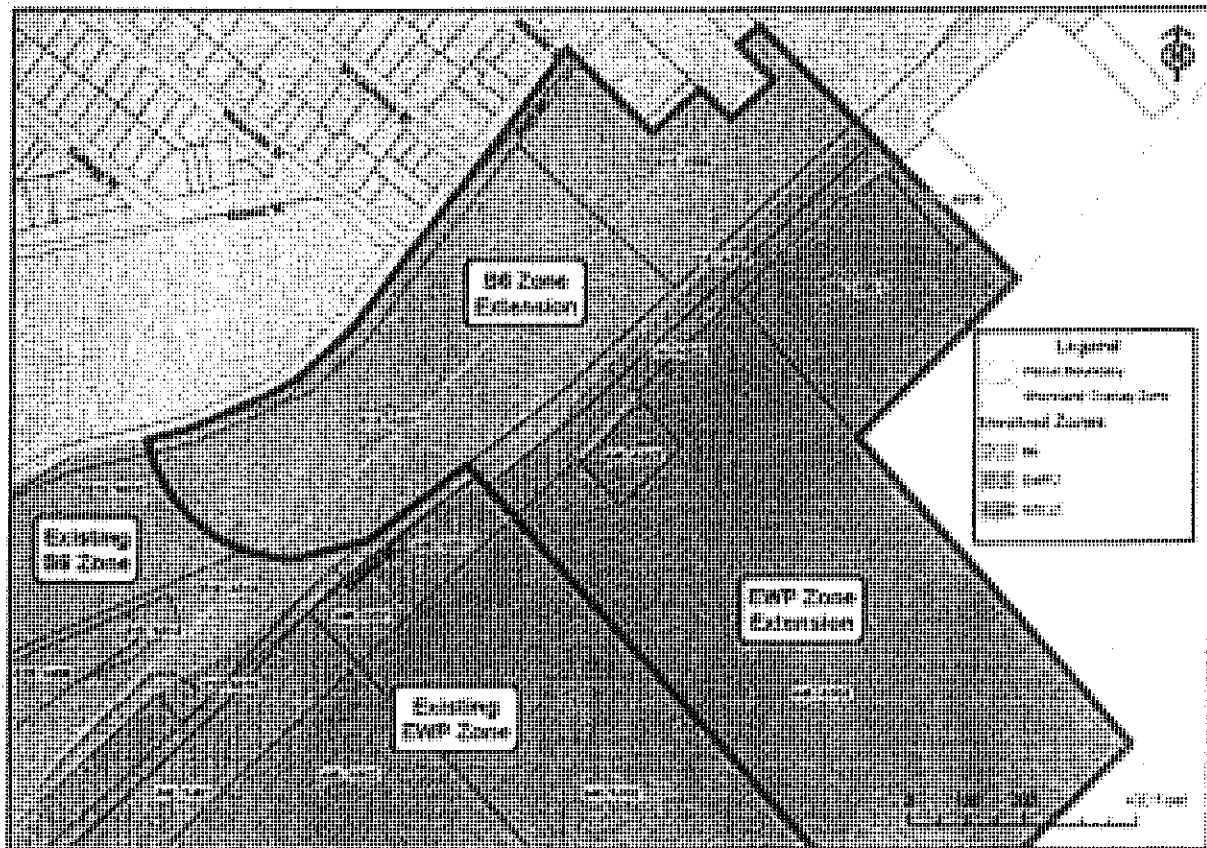
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Amendment to Order No. 185-14/15 prepared by Corporation Counsel

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.

David P. Silk
1187 Westbrook Street
Portland, ME 04102-1928

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

Christine Grimando, Senior Planner

March 31, 2015

Page 2

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

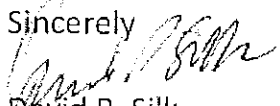
Page 4

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
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>>> 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:

about:blank

2/6/2015

- 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 3523 / ext. 203 fax (207) 874 9819

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://vimeo.com/album/3202655/video/116568347> (Waterville Street "view corridor")

<http://vimeo.com/album/3202655/video/116569060> (St. Lawrence Street "view corridor")

<http://vimeo.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.

--

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A PROFESSIONAL ASSOCIATION

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EDWIN P. CHESTER
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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,

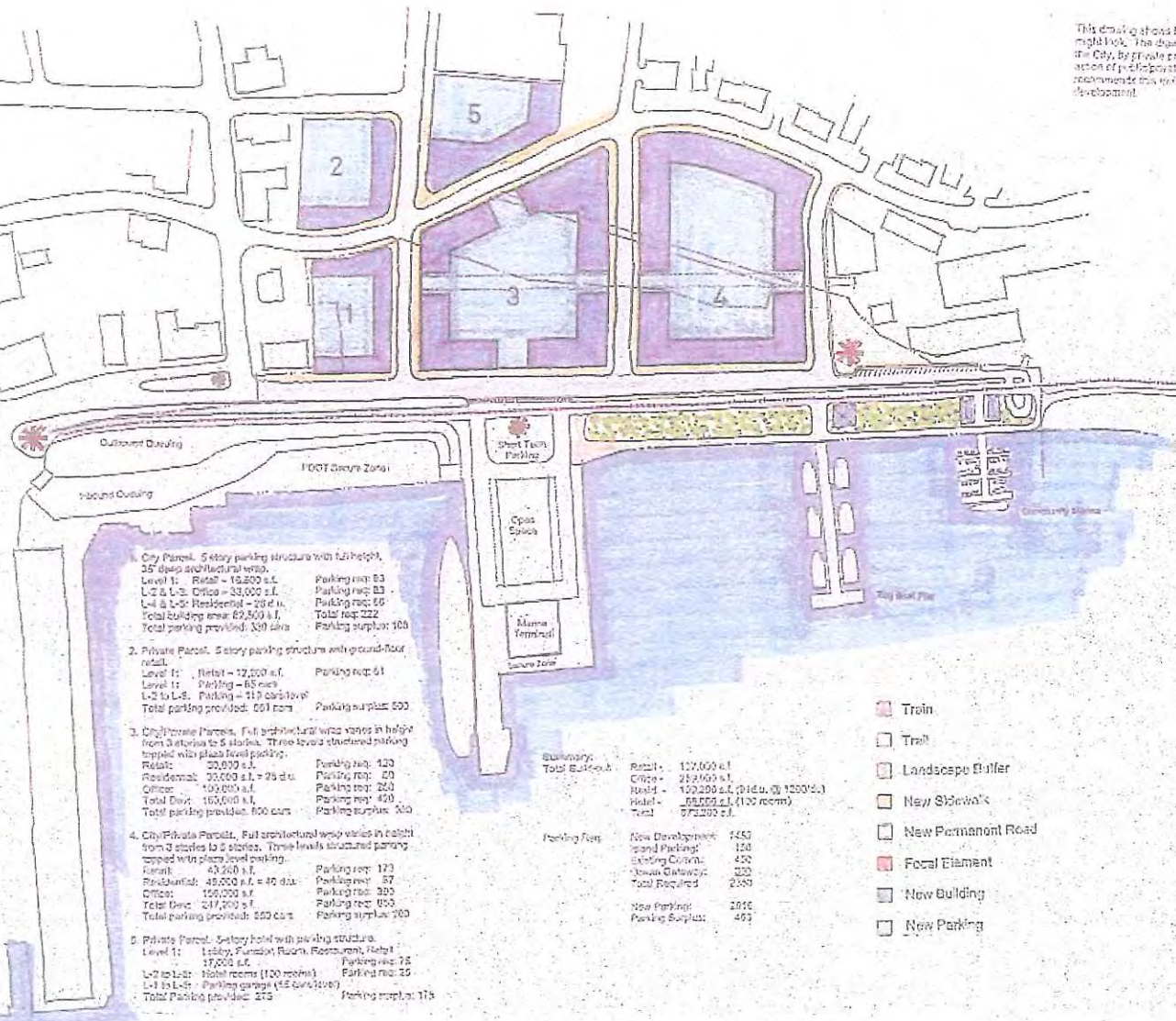


Barbara A. Vestal

BAV/om
Enclosures
cc: Christine Grimando

This drawing shows how 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 both the City and private property owners. The Committee recommends this well-planned and integrated approach to development.

EXHIBIT A



Portland Planning Office
Spring 2002

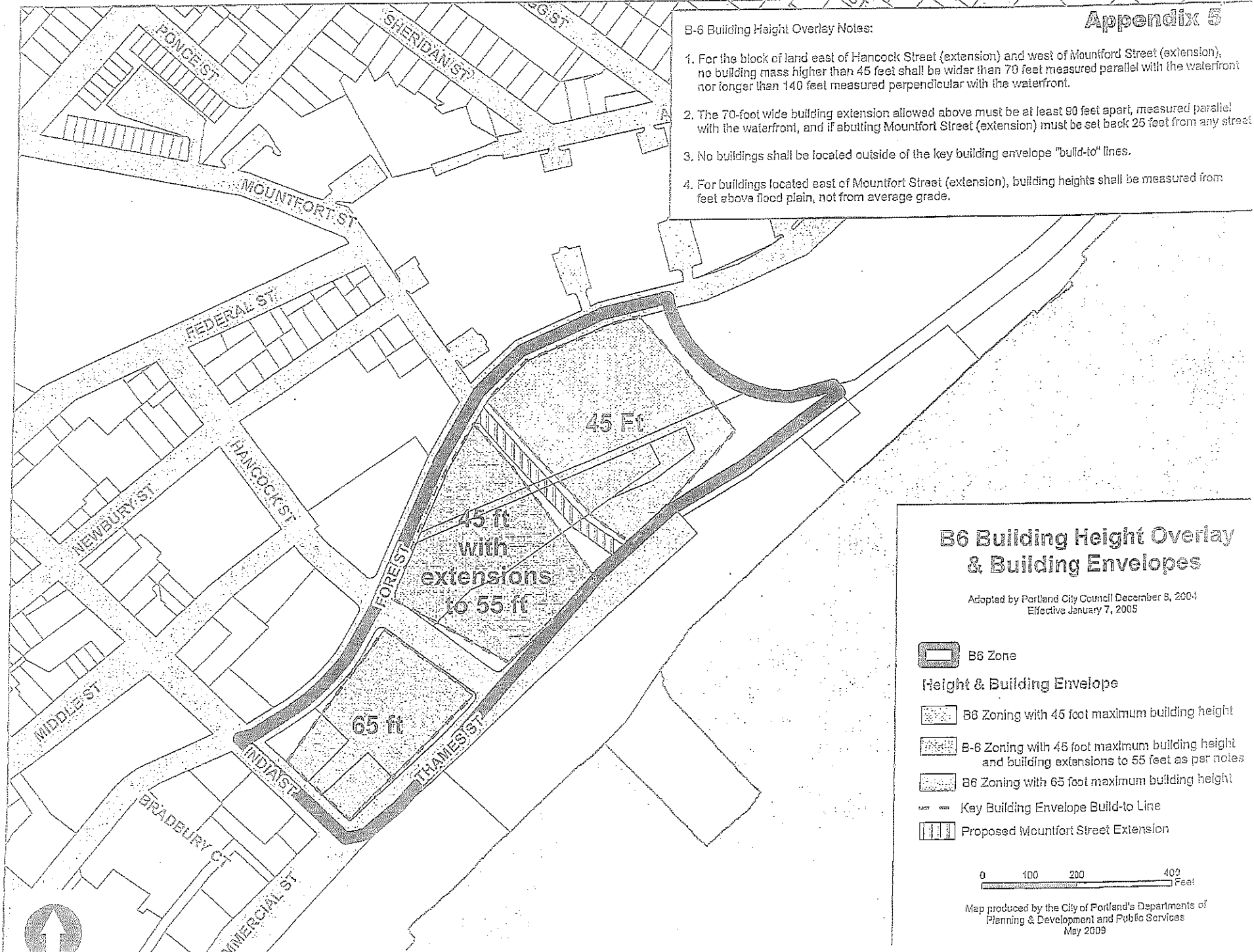
Ultimate Build-out Scheme
Joint Development of City/Private Parcels

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.



-  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, 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.

EXHIBIT

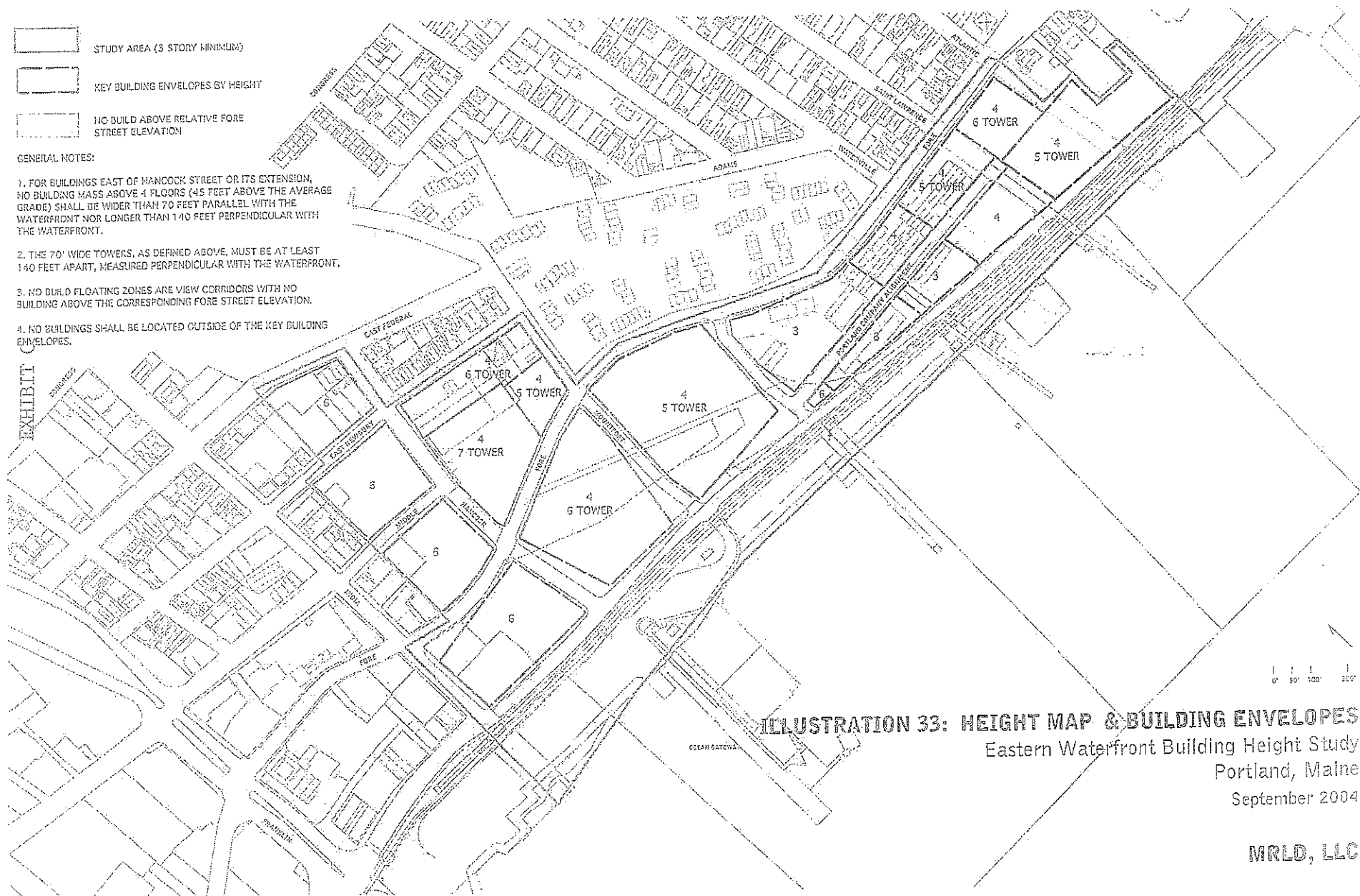


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 September 2004

MRLD, LLC

- 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 86 Building Height Overlay building envelope. City Planning process will require a detailed calculation of average grade based on future proposed building footprints

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

Journal of Interpersonal Violence 30(10) 1830-1846, © 2015 Sage Publications
10.1177/0886260515586001

-  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.

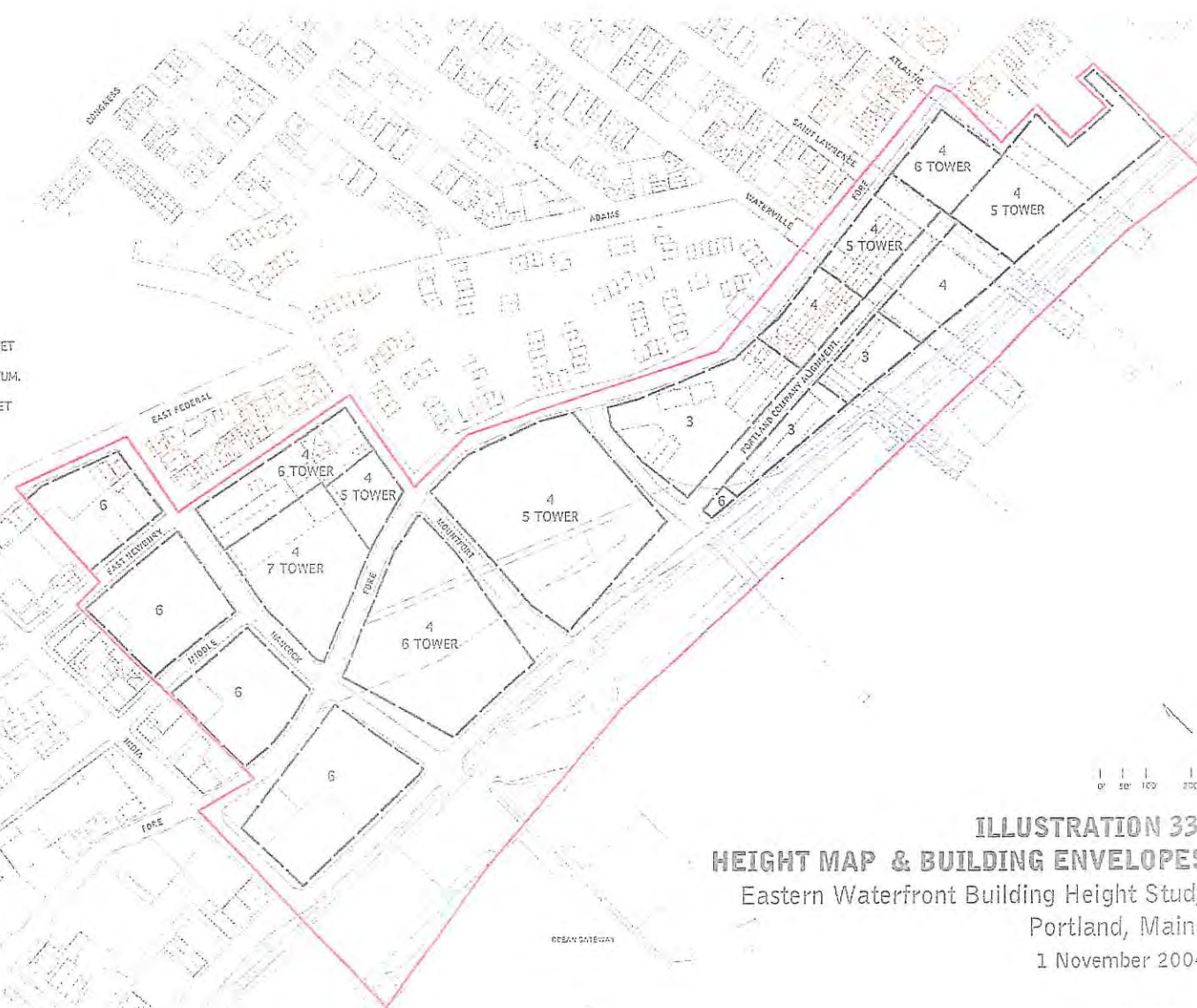
2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2' ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM. WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT 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.

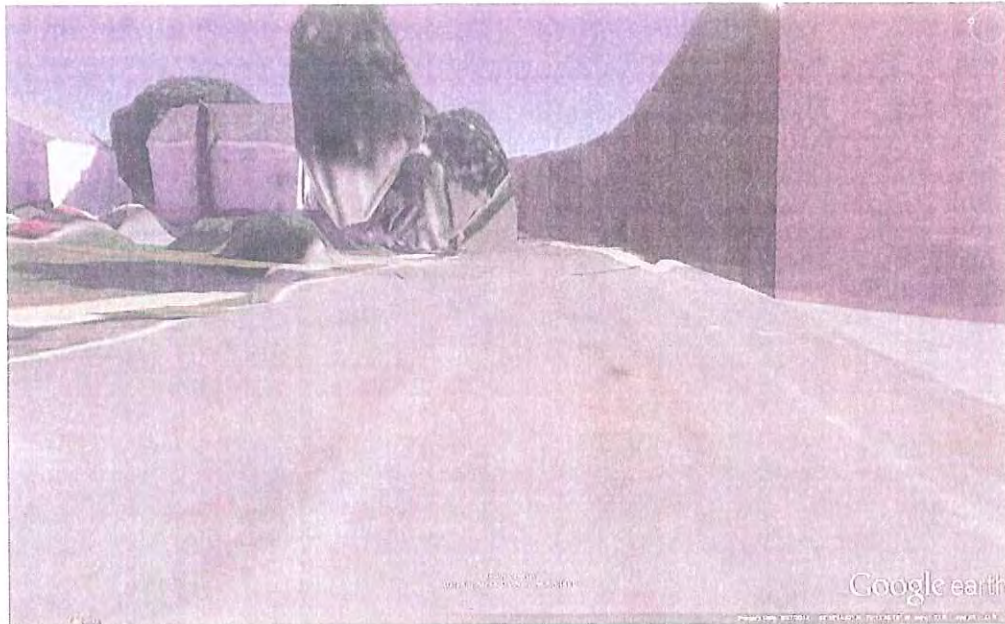
EXHIBIT E



0' 50' 100' 200'

ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

MRLD, LLC



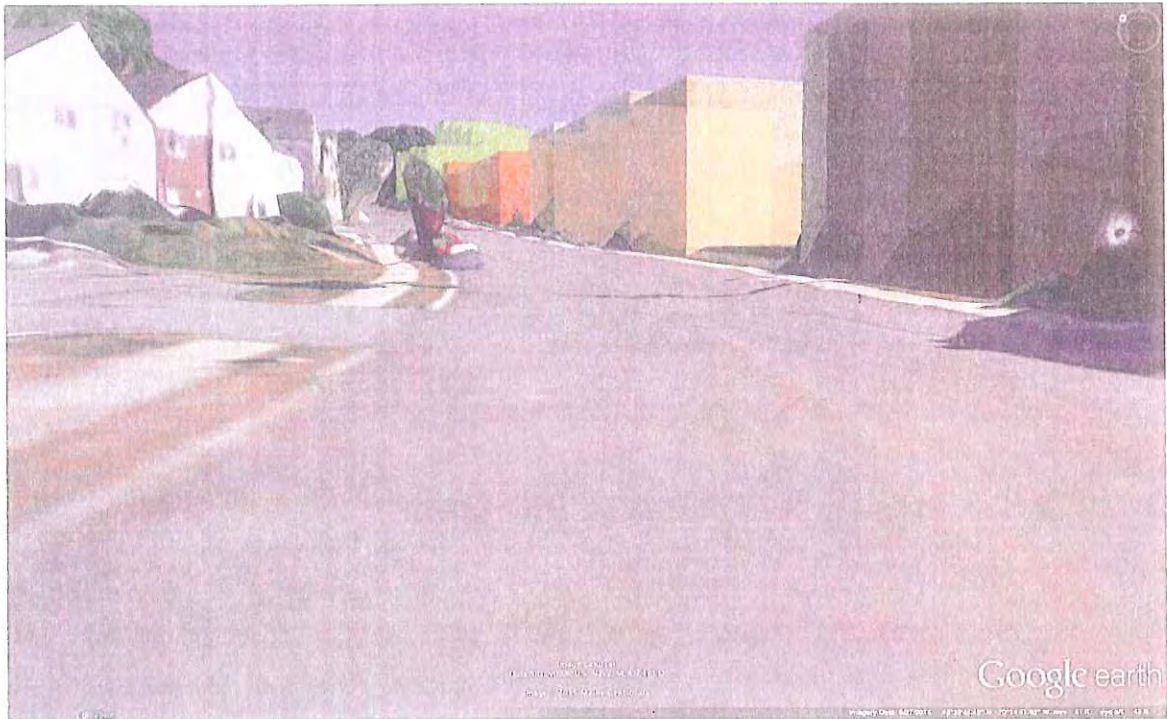

SOUL OF PORTLAND
 SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
 HEIGHTS ABOVE AVERAGE GRADE




SOUL OF PORTLAND
 SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
 EIGHTS 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 STREET GRADE



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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 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.

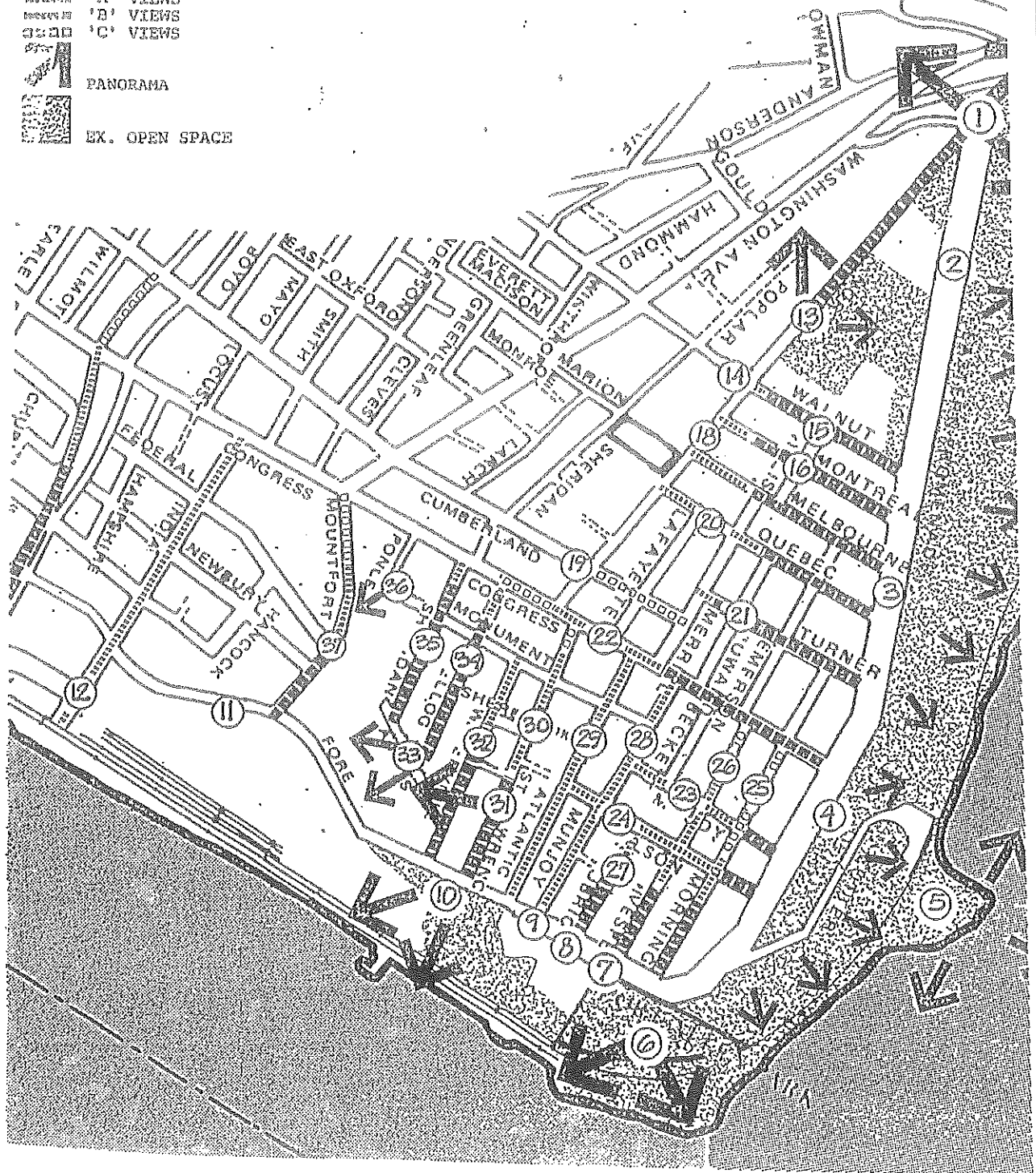
Sincerely,

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
- AREA 'A' VIEWS
 - AREA 'B' VIEWS
 - AREA '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.

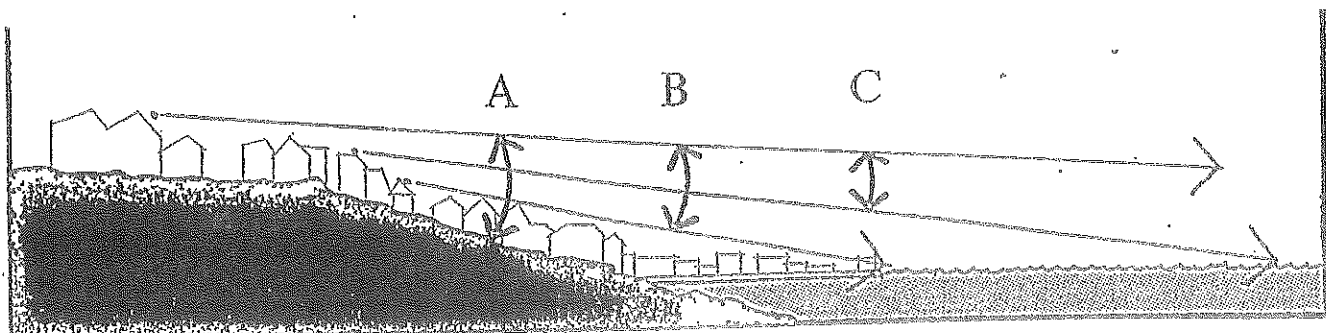
Opposite the visual corridors map is a chart describing characteristics of the visual corridors and viewpoints. In some instances the number on the chart refers to a single point, in others, a street - usually running perpendicular to the waterfront, and in others it represents an entire area Location.

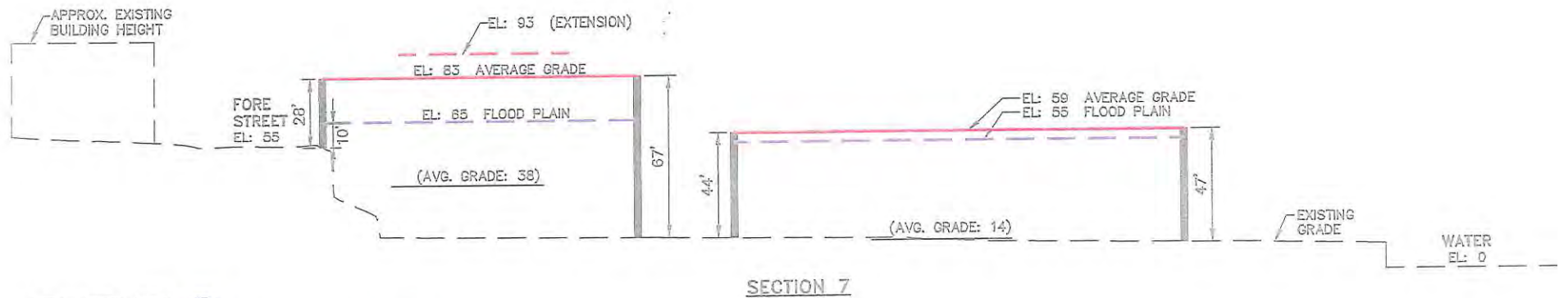
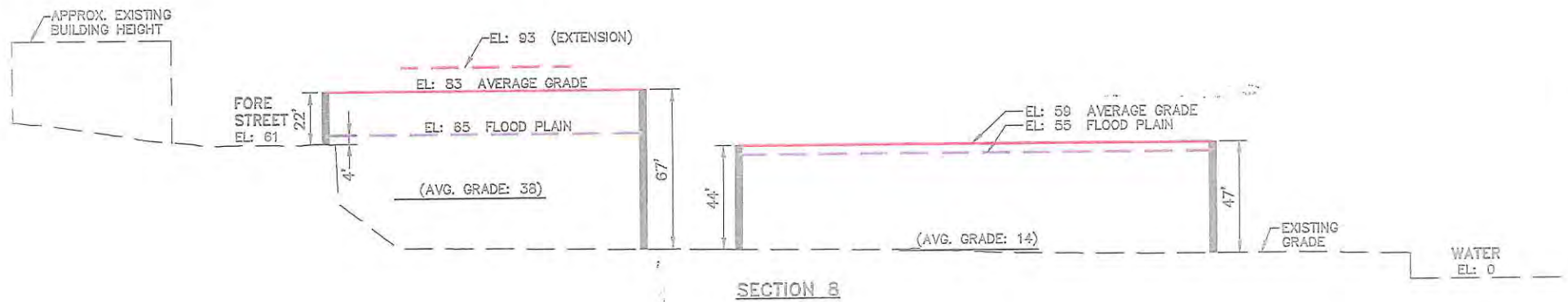
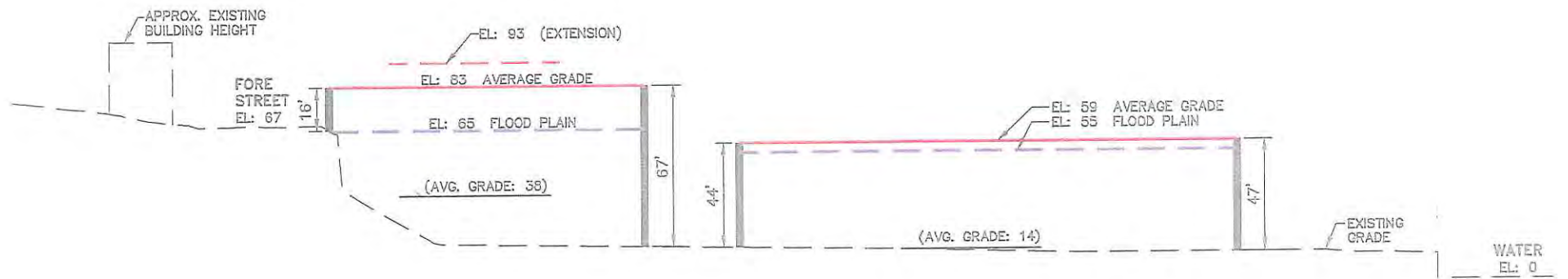
The Position column refers to the observer's position relative to the waterfront (WF): well above it, at the waterfront roofline, or at the water's edge.

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
 COMMUNITY PLANNING & DEVELOPMENT PORTFOLIO - GRADES

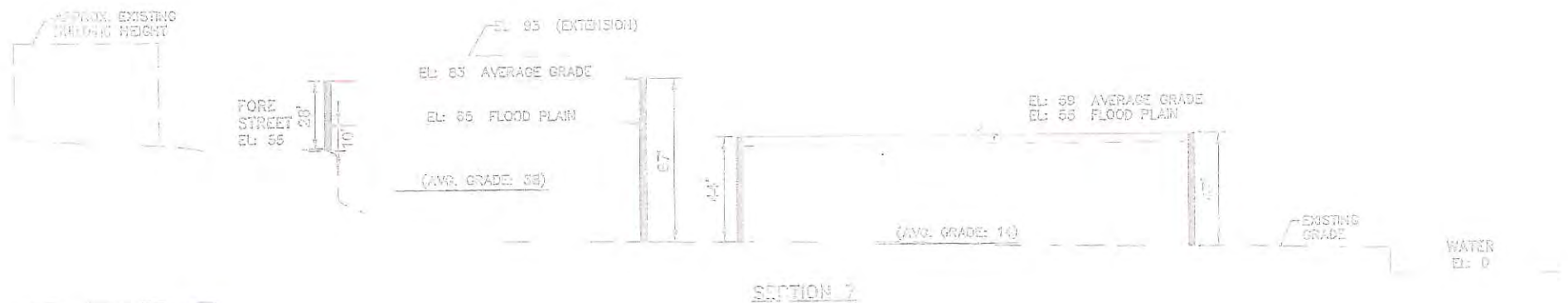
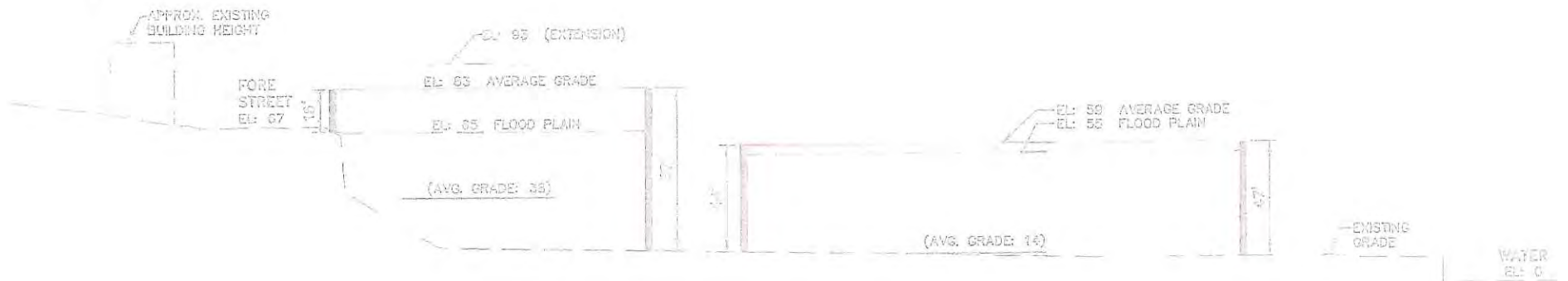


411 Madison Drive | Portland, Maine 04102
 800.355.4282 | www.woodardcurran.com
 COMMITMENT & INTEGRITY DRIVE RESULTS

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:

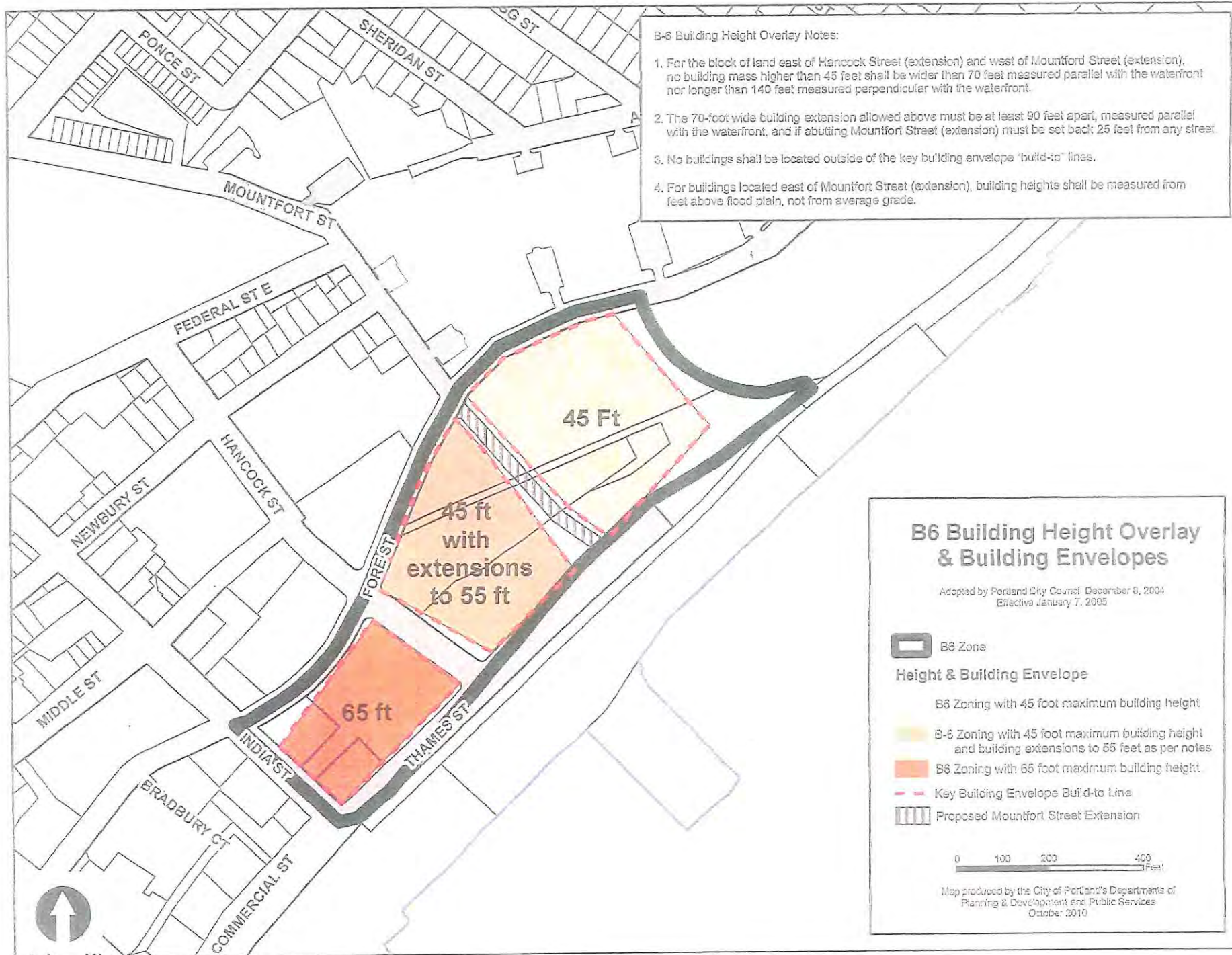
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2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2' ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM. WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
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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

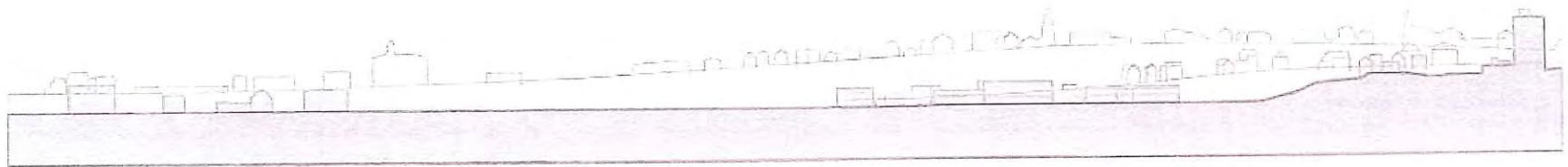
B-6 REQUIREMENTS FOR A BUILT STREETScape ON THE SOUTH SIDE OF FORE STREET ARE ANTITHETICAL TO "WHAT MAKES PORTLAND DISTINCTIVE".

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 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



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

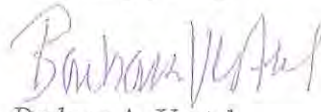
In the alternative, now that the Farley-Marino site has been rezoned to B-6, 58 Fore Street is the only property remaining in the WSUZ. That fact offers the opportunity for carefully crafted amendments to the text of the WSUZ which are designed to allow a thoughtful version of the proposed development. 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.

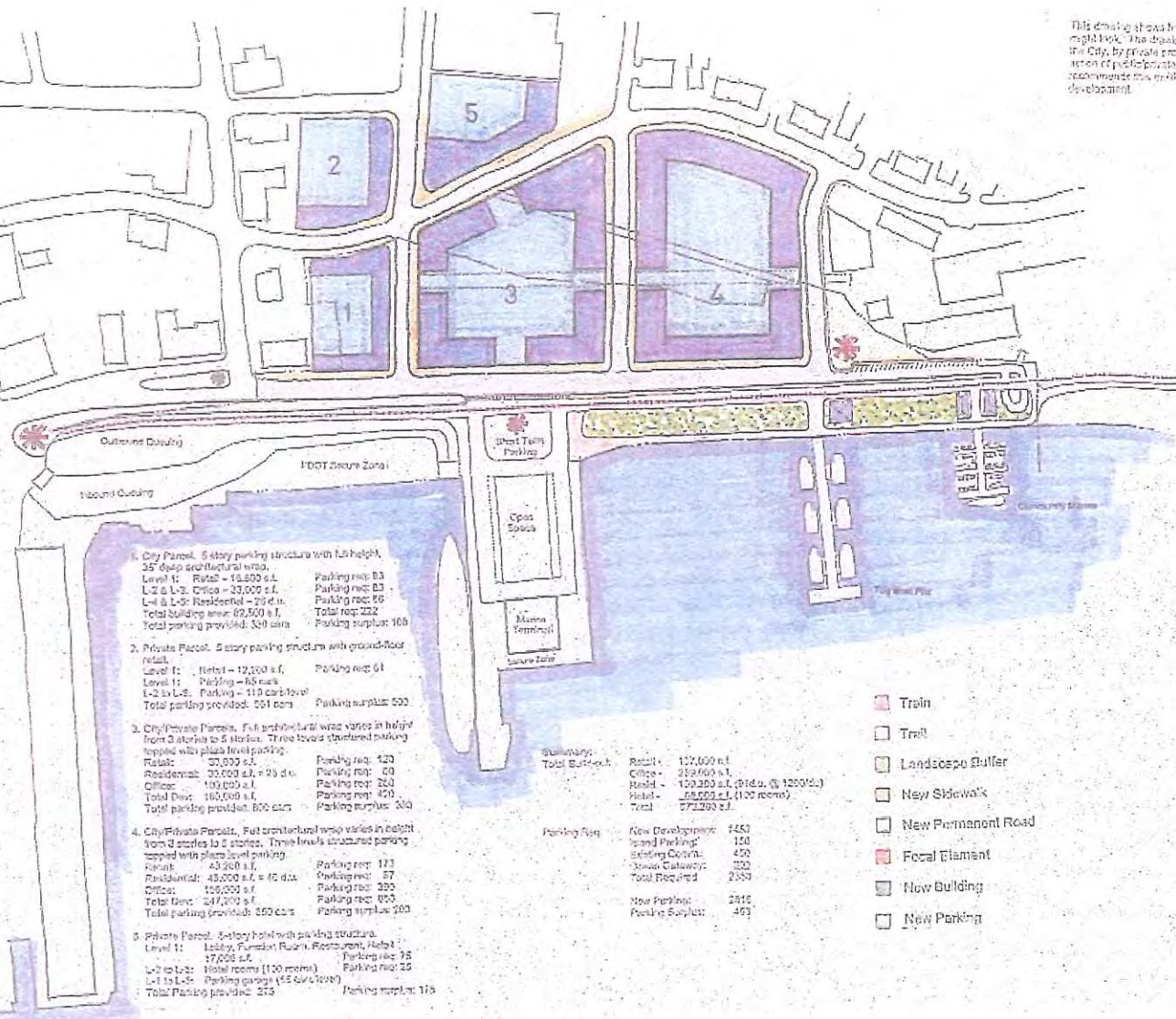
Very truly yours,


Barbara A. Vestal

BAV/om
Enclosures
cc: Christine Grimando

This drawing shows how 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/private property owners. The Committee recommends this multi-phased and integrated approach to development.

EXHIBIT A



Portland Planning Office
Spring 2002

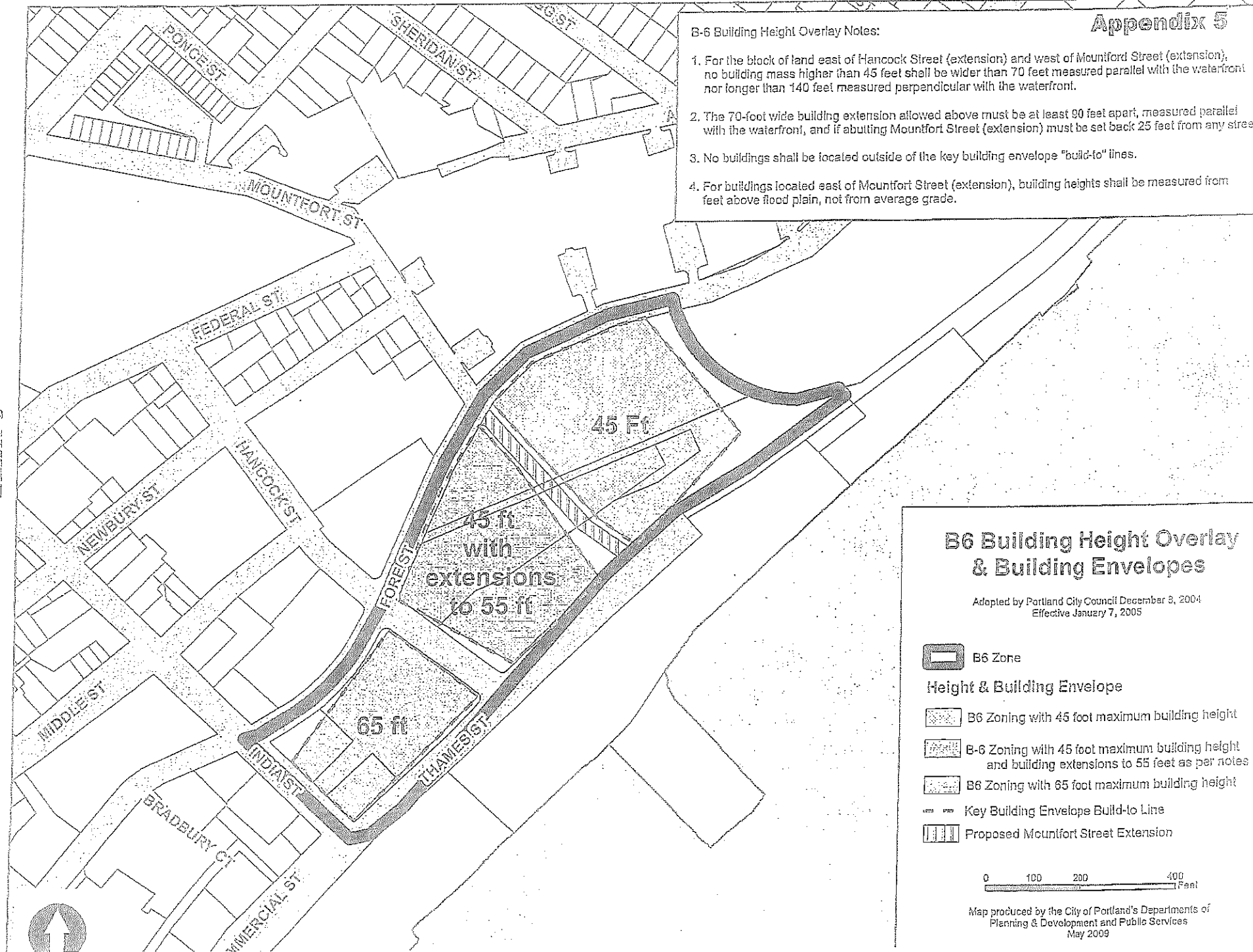
Ultimate Build-out Scheme
Joint Development of City/Private Parcels

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 9, 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 Mountfort Street Extension

0 100 200 400 Feet

Map produced by the City of Portland's Departments of
Planning & Development and Public Services
May 2009

-  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, 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.

EXHIBIT

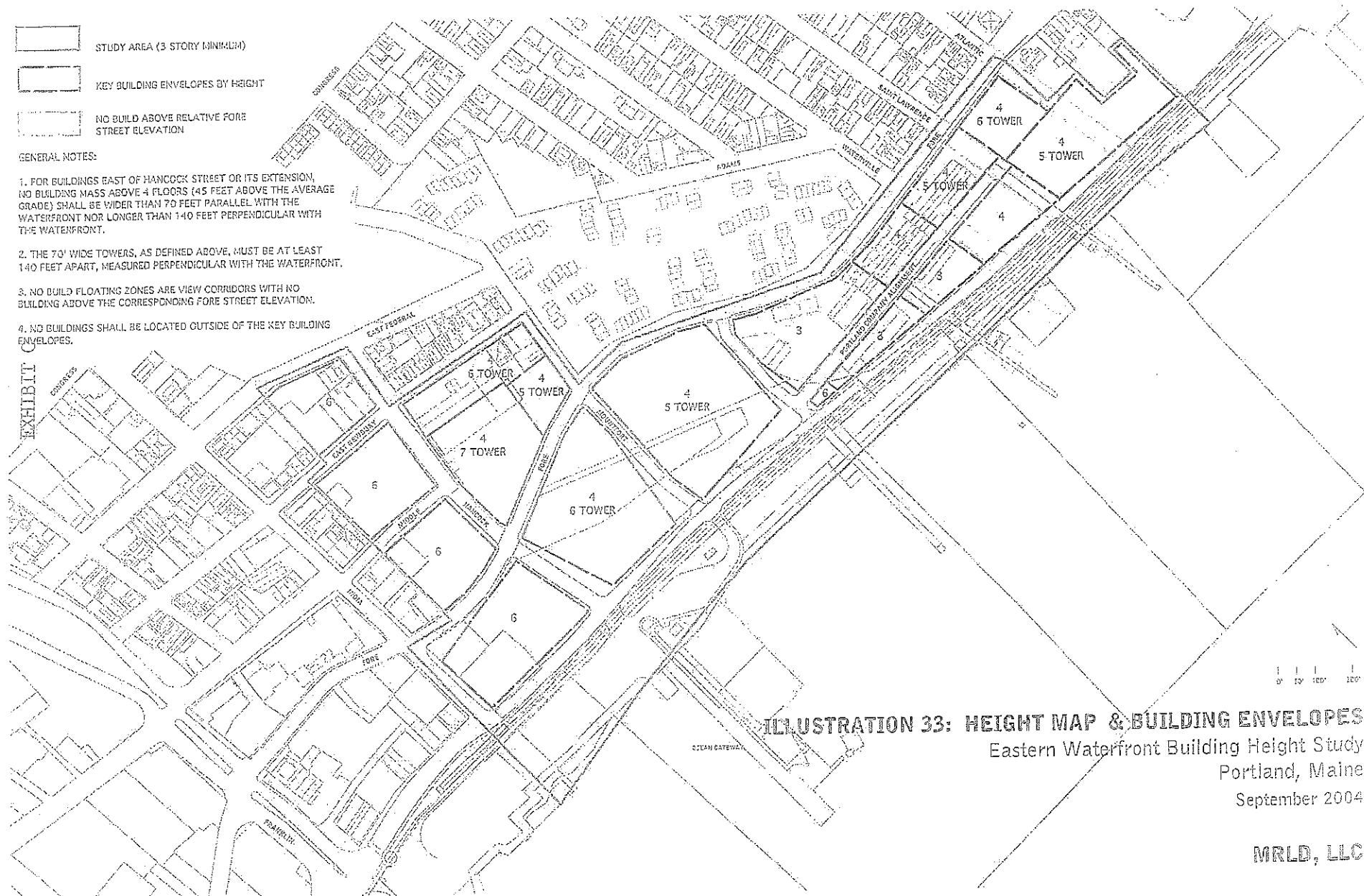
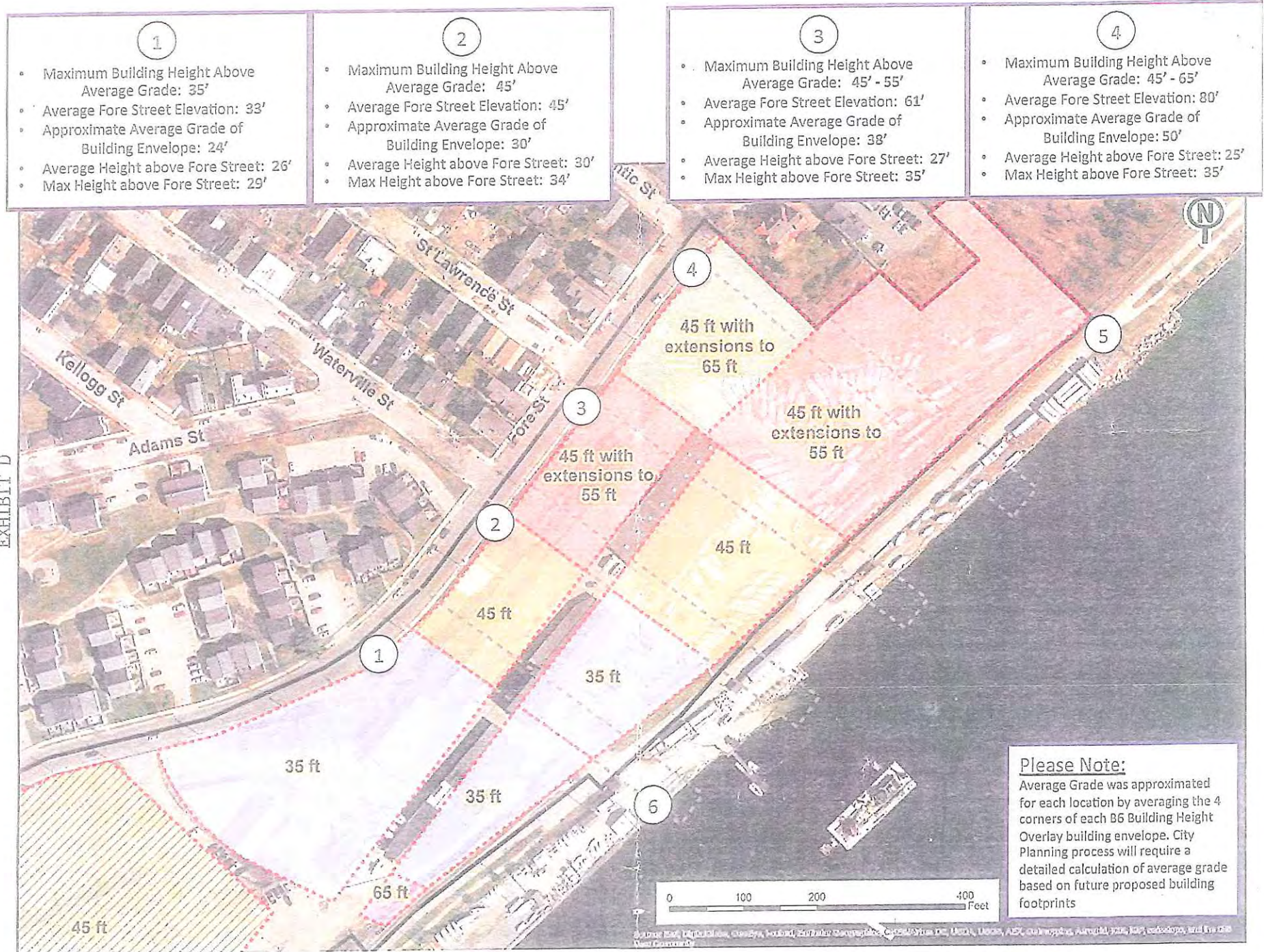


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 September 2004

MRLD, LLC



-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS 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

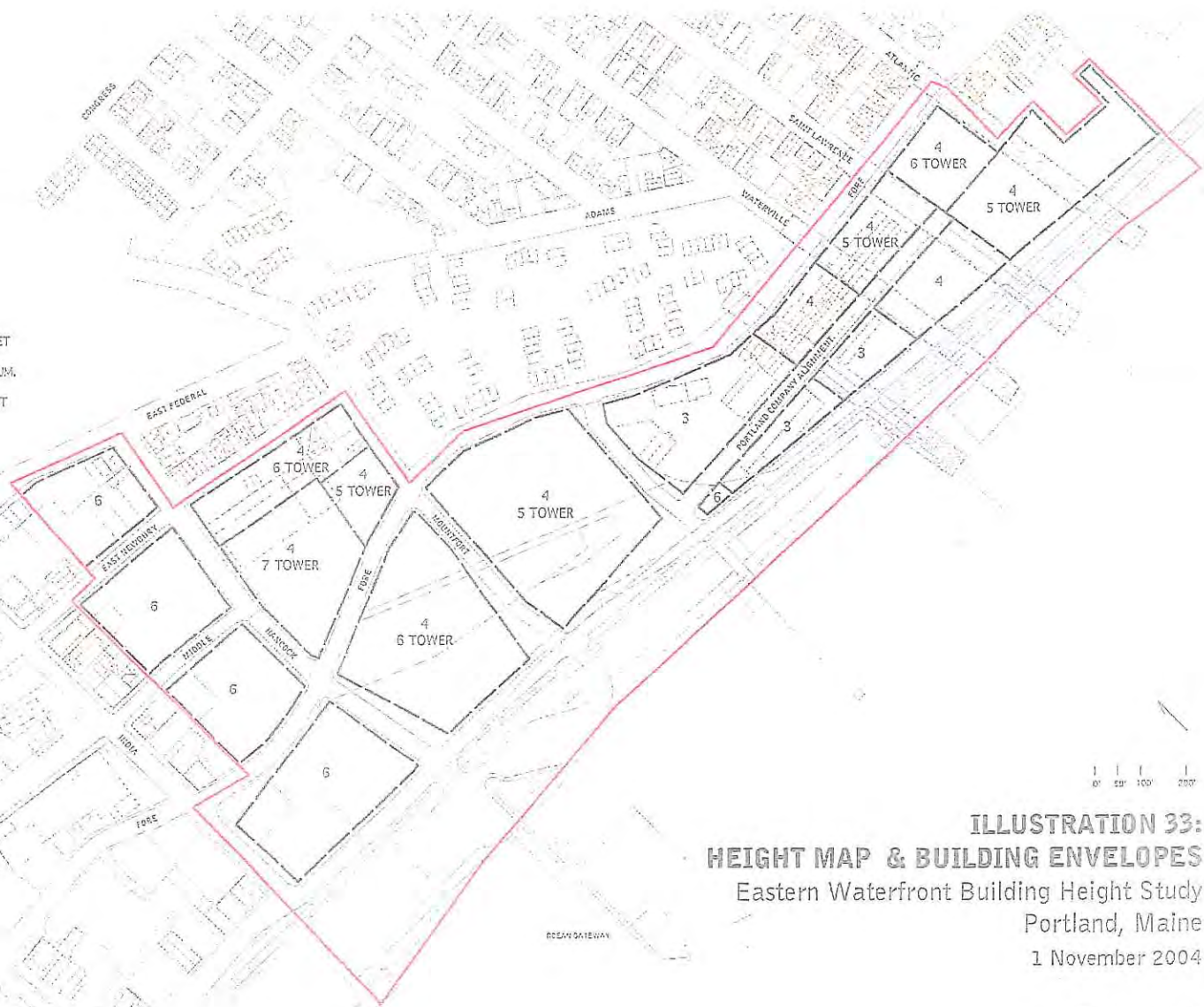


ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

MRLD, LLC



SOUL OF PORTLAND
SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
HEIGHTS ABOVE AVERAGE GRADE



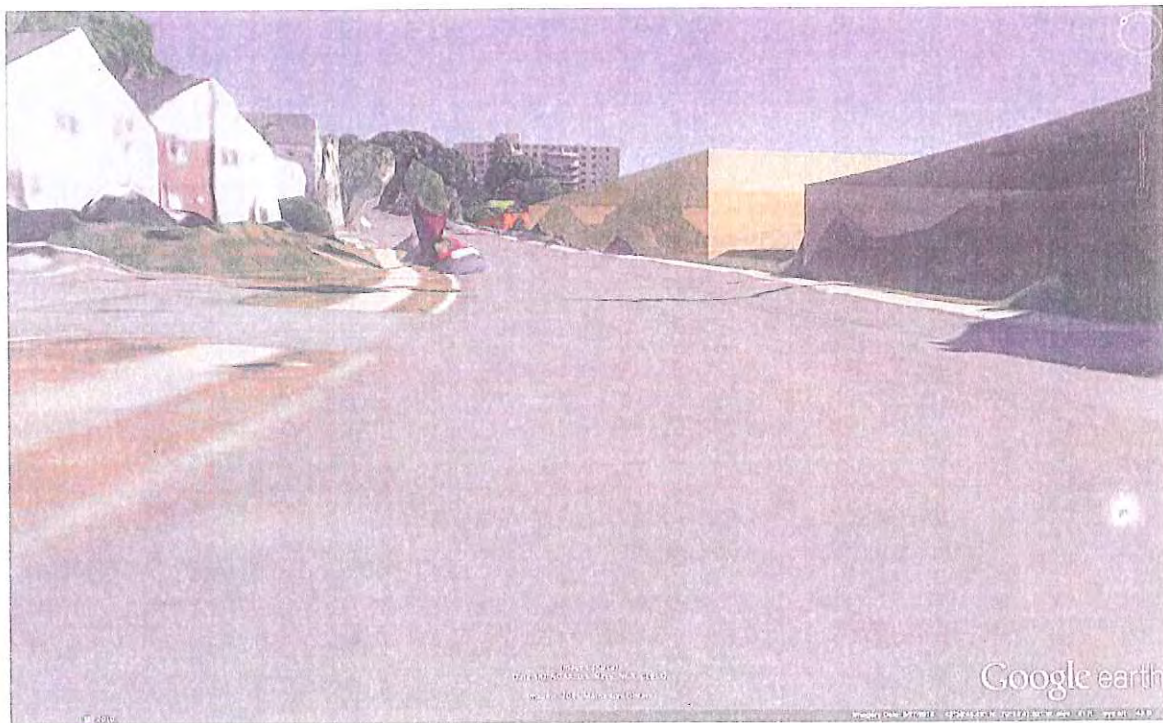
SOUL OF PORTLAND
SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
EIGHTS 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



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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 3, 2014

Paula Guillemette Agopian
92 Monument St
Portland, Me 04101

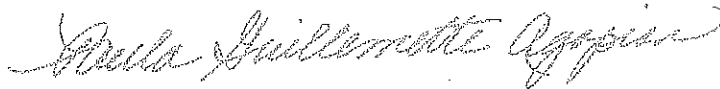
Deb Andrews, Historic Preservation Program Mgr.
City of Portland
389 Congress St
Portland, Me 04101

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.

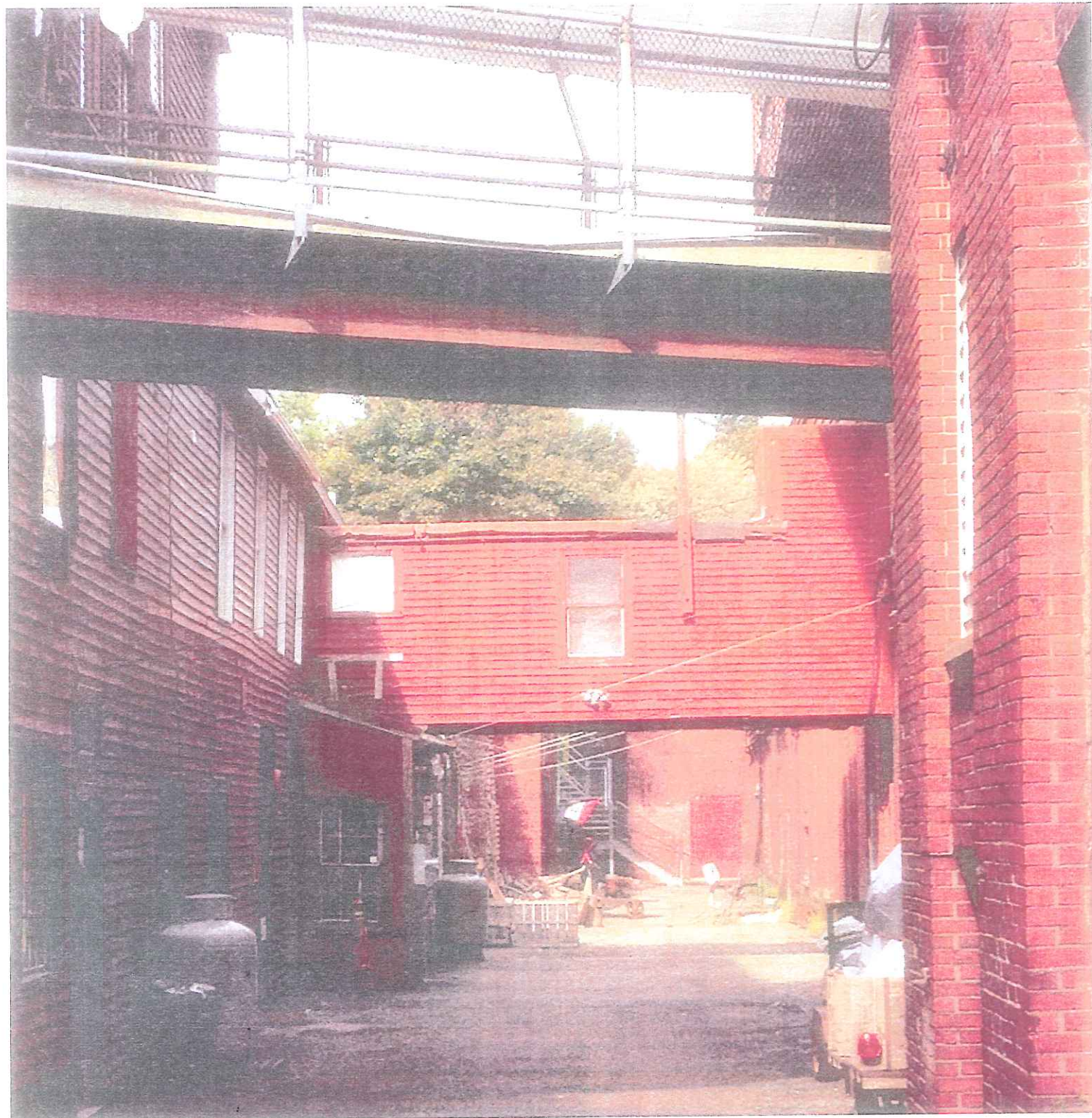
The Historical Preservation board was specifically created as a direct result of the travesty of allowing Union Station to be destroyed to allow a developer to put up a seedy strip mall.

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: "edg@portlandmaine.gov" <edg@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 Morning,

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 Rasor 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
cdg@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
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389 Congress Street 4th Floor
Portland, Maine 04101
Phone (207)874-8720
Fax (207)756-8258
<http://www.portlandmaine.gov/planning>
@portlandplan
(<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 Widgery 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
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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":

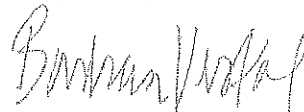
Sidewalks are key to defining streets as civic places. Sidewalks should be provided along both sides of all streets and should be wide enough to accommodate visiting and residential pedestrians comfortably and safely. (p. 3)

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} 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. ^{New BELOW}

- 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

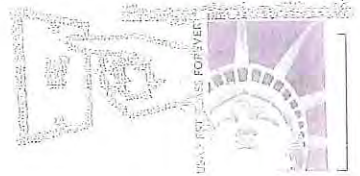
Save the valued view. PDC 041

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,
Maggie Wolff

Card design by portlanddenise@gmail.com

Saint Lawrence St. 04101



Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
380 Congress Street
Portland, Maine 04101

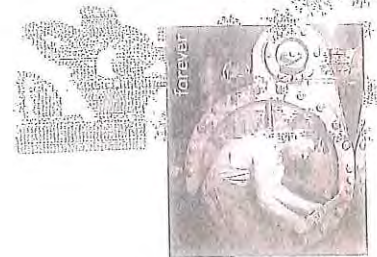
Save the valued view. PDC 041

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 view of
"Feel" of Fore Street
will be severely
damaged if they build on
Fore Street.

1356655

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

Phil van Stokely
This is 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.

11/12/15
Please, please, please don't
let a zoning change
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with the water.
Thank you for your
attention

Steve Lander
Heddi Hoffman

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

Please share your thoughts
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11/12/15
Thank you for your
attention
9 Waterville St Apt 4C

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

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

Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
380 Congress Street
Portland, Maine 04101



Card design by portlanddenise@gmail.com

Tyler

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.

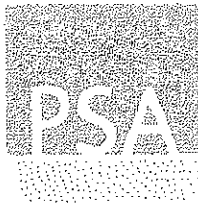
The City's historic preservation ordinance requires very strict time frames for consideration of potential historic designation, which we believe will not unduly delay matters. The Planning Board itself could then deliberate on any changes needed and whatever goes to the Council would have the full vetting 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

Portland Society for Architecture
1000 NE Oregon Street, Suite 200
Portland, OR 97232
503.228.1111
www.portlandpsa.org
Portland, Oregon
February 24, 2015
Portland Planning Board
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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

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
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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."

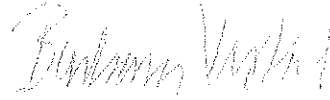
Compare that the same section in the December 2004 final report (Exhibit 7). Most of the findings only have minor tweaks – like substituting 5 to 6 for 8 in the upper Fore shadow. But, significantly, the entire statement about the possibility of 1-2 story buildings with frontage on

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

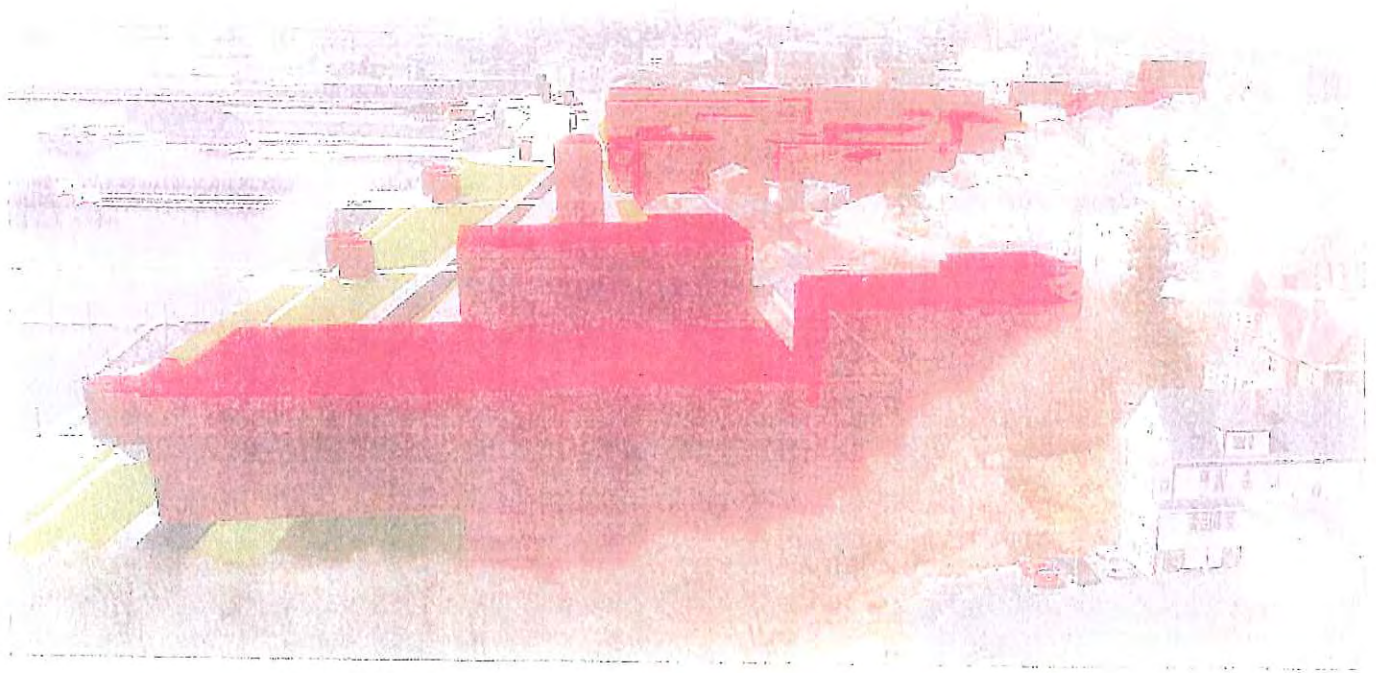
BAV/om

Attachments: Exhibits 1 - 7

EXHIBIT 1

Cost 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
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'.

0 0 0 0 0

Temperature (°C)	Rate of reaction
0	0
10	4
20	8
30	10
40	10
50	9
60	8
70	7
80	6.5
90	6
100	6

24200 254 505

CHILDREN

2 1/2" WIDE

CONCLUSION



ILLUSTRATION 31: HEIGHT MAP7-BLUE-GREEN-PORTLAND-VA
Eastern Waterfront Building Height Study
Portland, Maine

5. CONCLUSIONS

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.

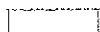
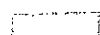
6. Neighborhood Meeting:

On September 7, 2004, the Planning Staff hosted a Neighborhood Meeting on Marjory 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 MAXIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE POST 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 POST STREET ELEVATION.
4. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

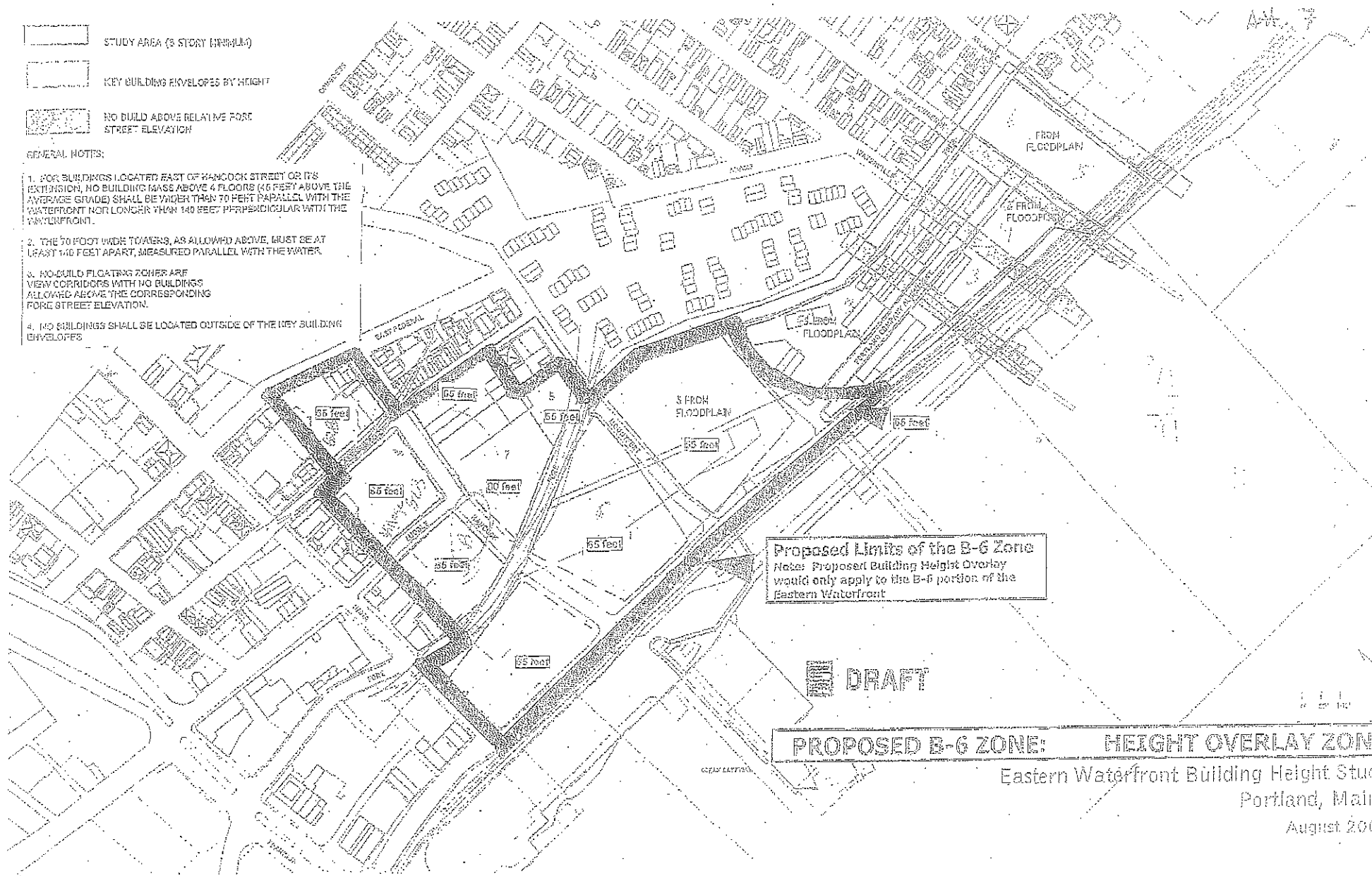
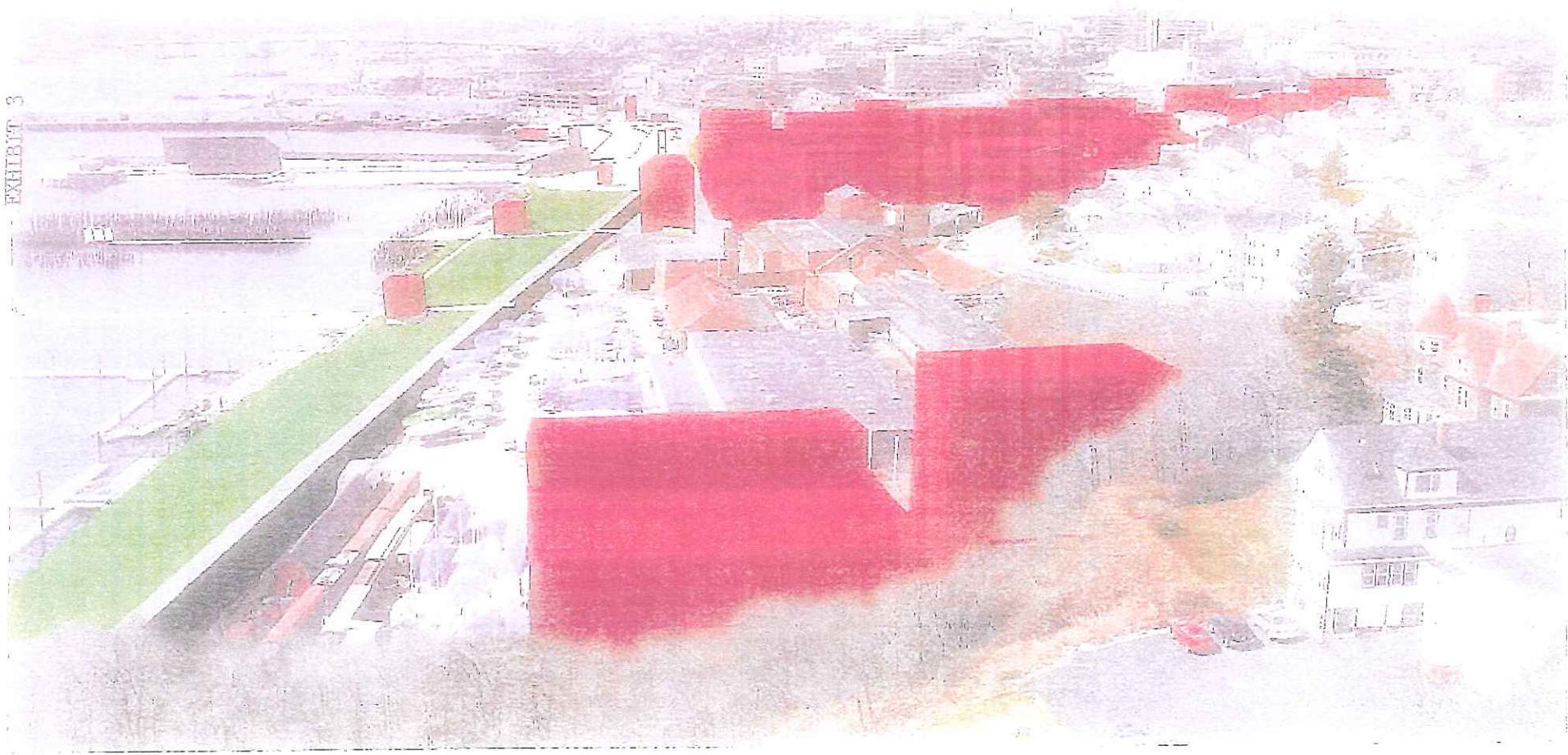


EXHIBIT 3



-  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.

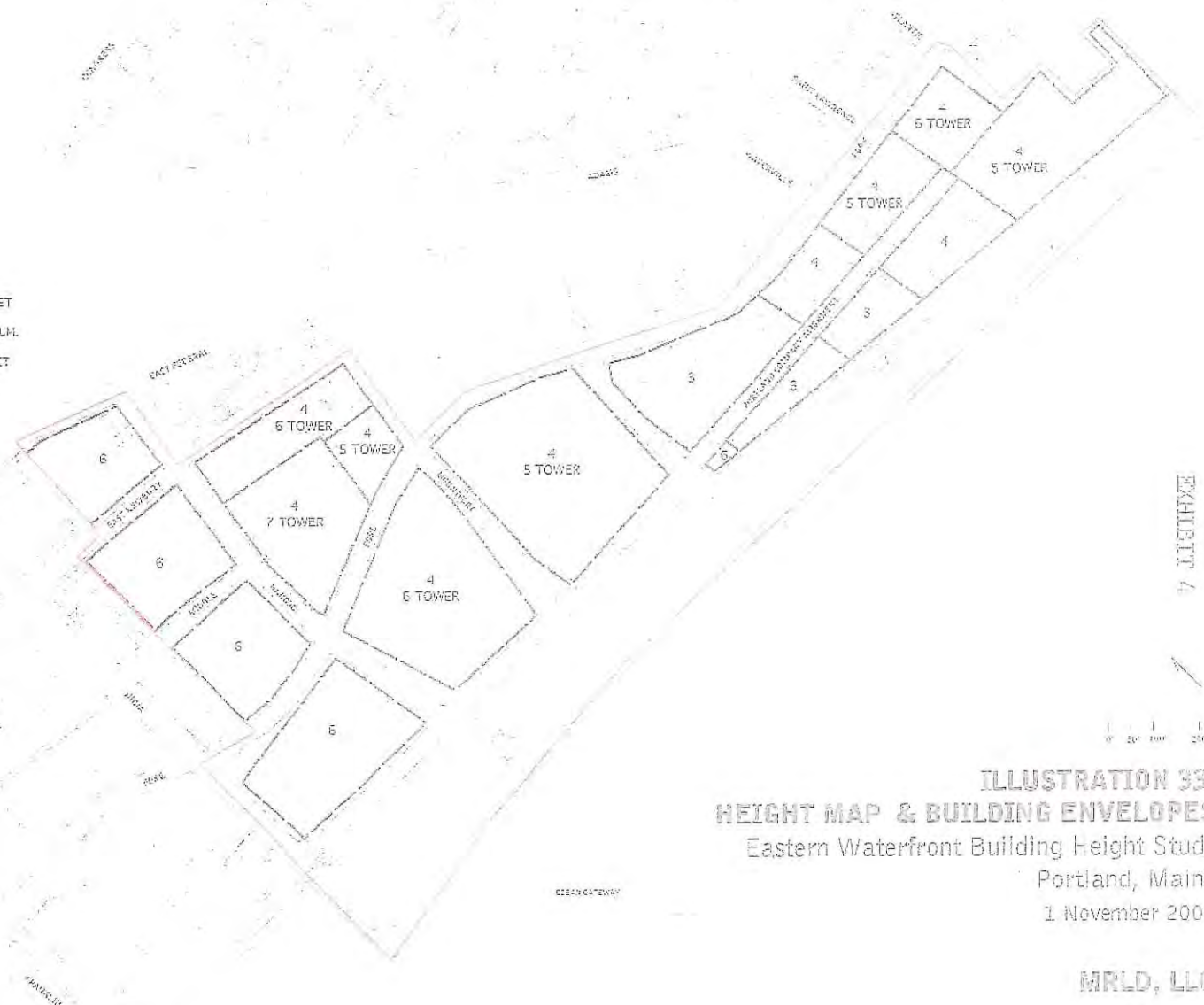


EXHIBIT 5

Memorandum
Department of Planning and Development
Planning Division



To: Mayor Smith and the Portland City Council

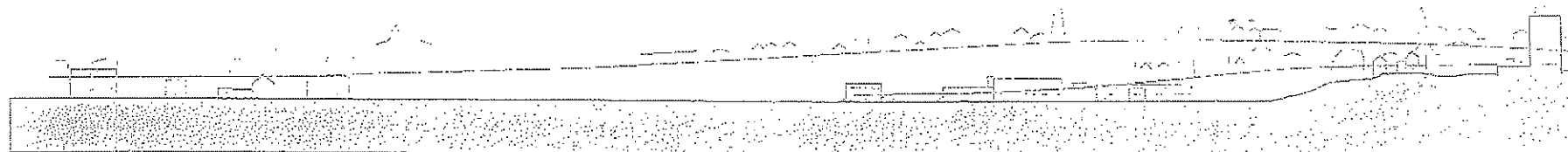
From: Bill Needelman, Senior Planner

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:

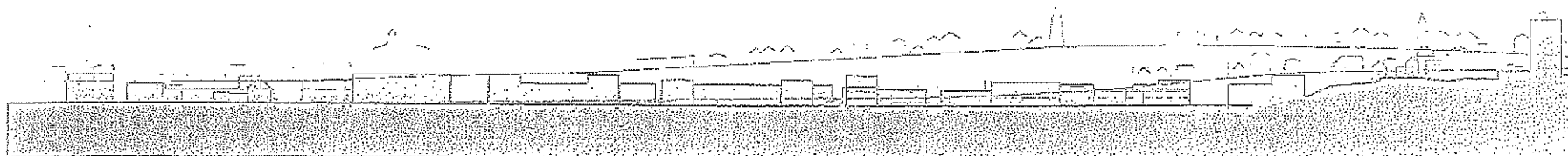
1. East / West Section: This drawing is taken from the Building Height Study and reflects the Planning Board's recommendation.
2. Potential Building Extensions: As suggested at the previous Council meeting, drawing 2 shows a maximum number of building extensions on those block where they are allowed. 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

500' 1000' 1500' 2000' 2500' 3000' 3500'



SECTION E PROPOSED - EAST / WEST (with Congress Street and Fore Street Elevations)

EASTERN WATERFRONT HEIGHT STUDY

Portland, Maine

23 September 2004

MRB, LLC



①

② Block Number



STUDY AREA (3 STORY MINIMUM)



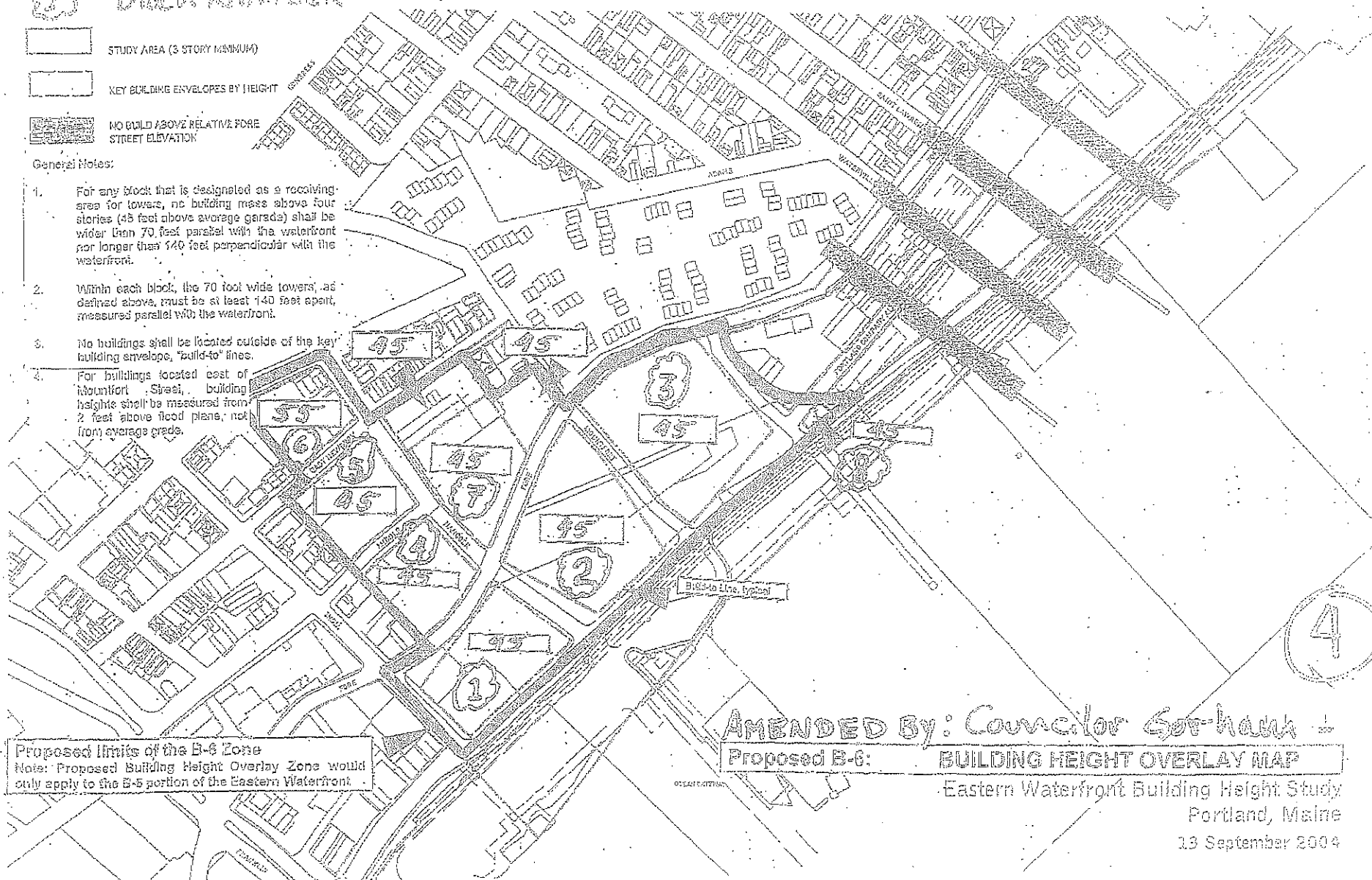
KEY BUILDING ENVELOPES BY HEIGHT



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 (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 Gortman

Proposed B-6:

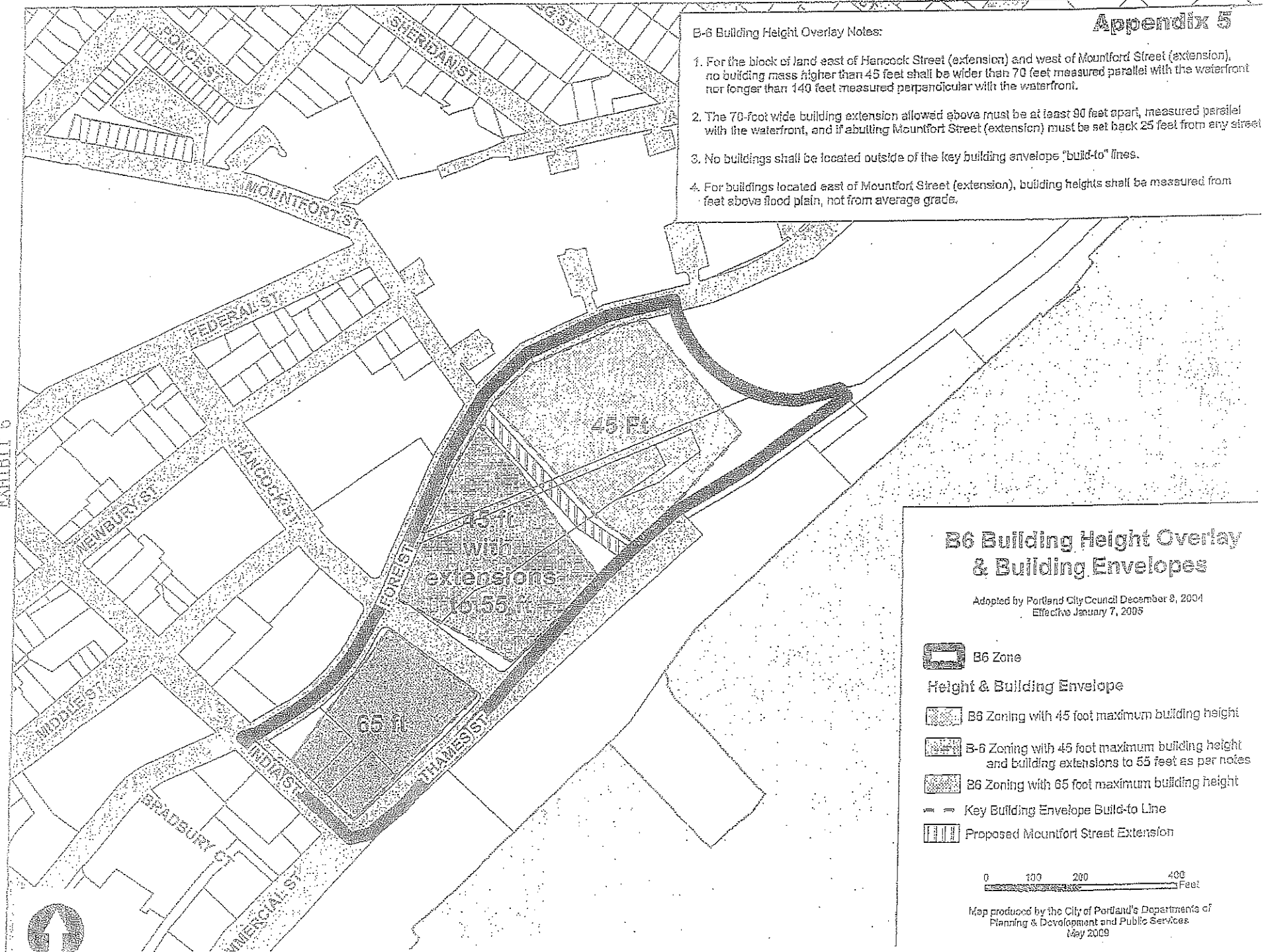
BUILDING HEIGHT OVERLAY MAP

Eastern Waterfront Building Height Study
Portland, Maine

13 September 2004

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.



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.



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
cde@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.

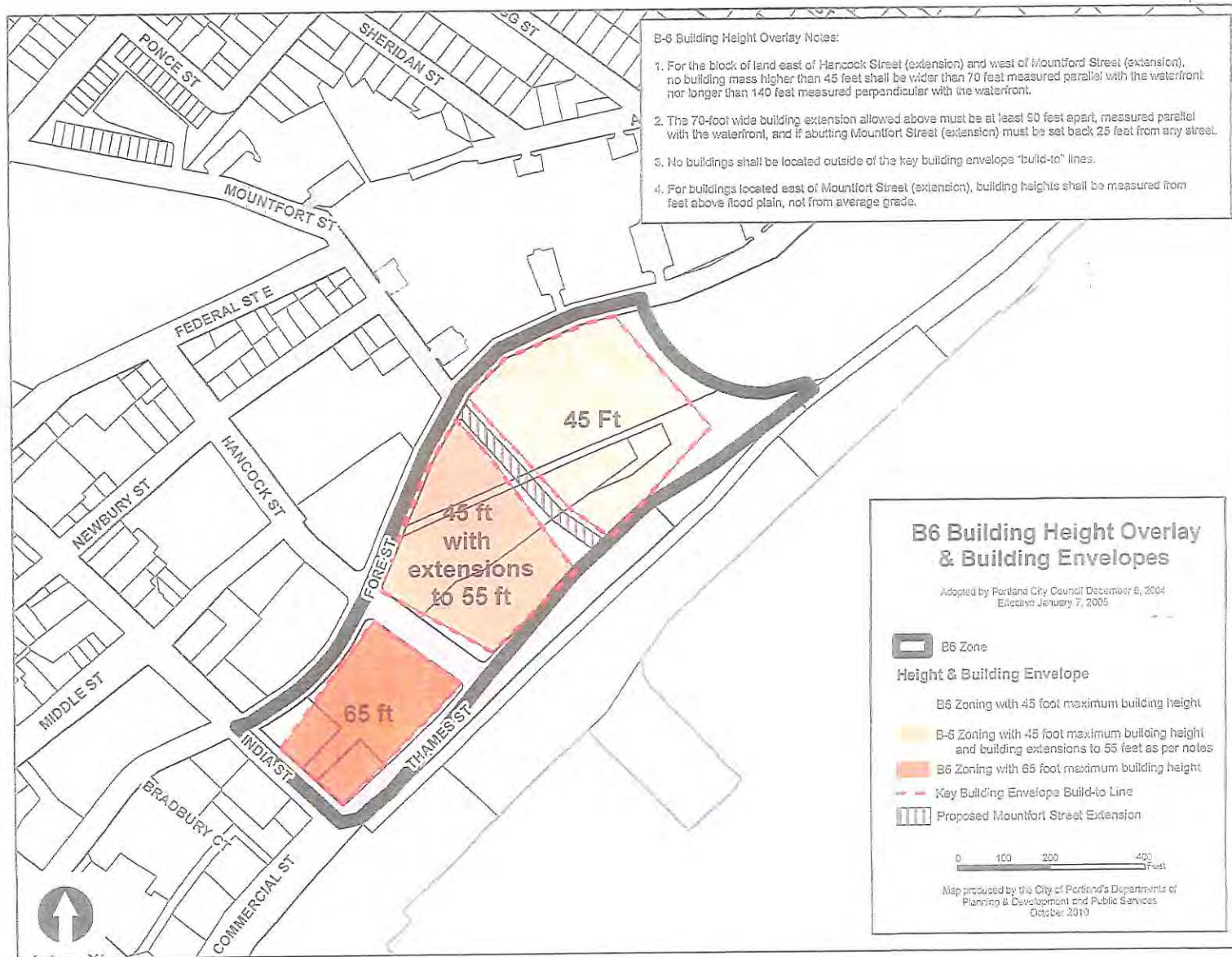
The effort to produce taller, more massive structures may be as much ego and principle-driven as it is dollar-driven, instead of a desire to produce an appropriate and context-sensitive development.

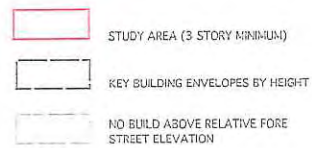
But why? Creative engineering, architecture and thoughtful planning along with the ability to build 65 foot tall buildings on the site based on floodplain can result in a truly impressive, striking and forward-thinking development that will produce great value to the City, its residents and the developers; 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





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.

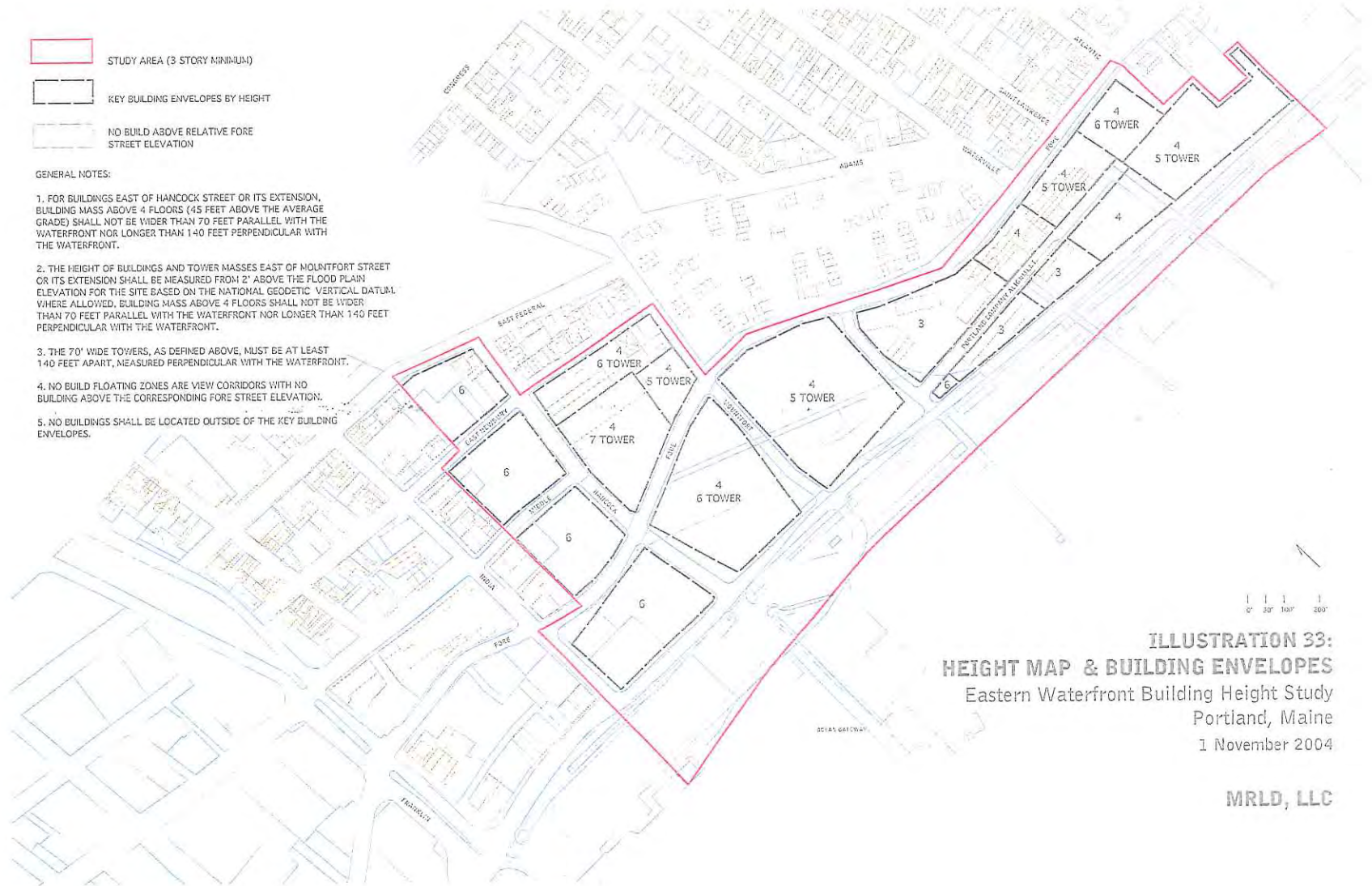
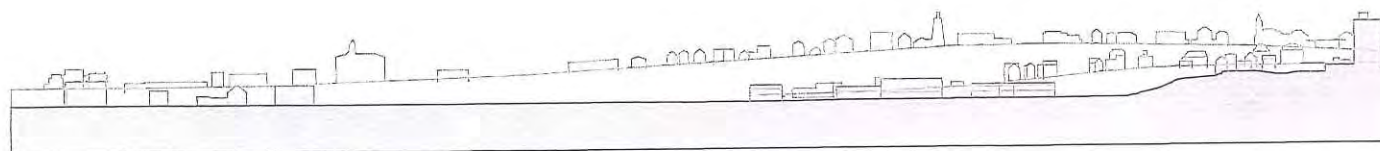


ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

MRLD, LLC



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

MRLO, 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

> cdg@portlandmaine.gov <<mailto:cdg@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
>> cdg@portlandmaine.gov <mailto:cdg@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.

p. 2 of 2

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.



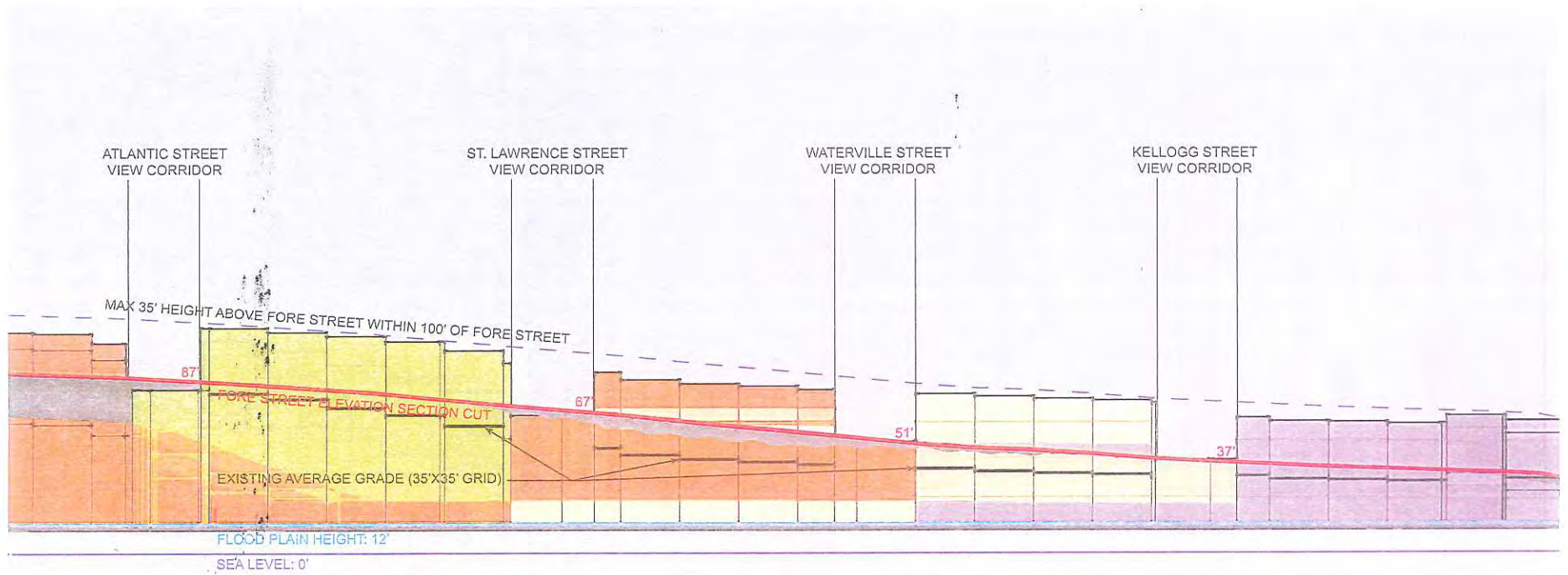
SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

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

Photo taken on
Sat, Dec 10, 2014 10:11 AM PST
© 2015 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
SOULOFPORTLAND.ORG
MAY 22, 2013



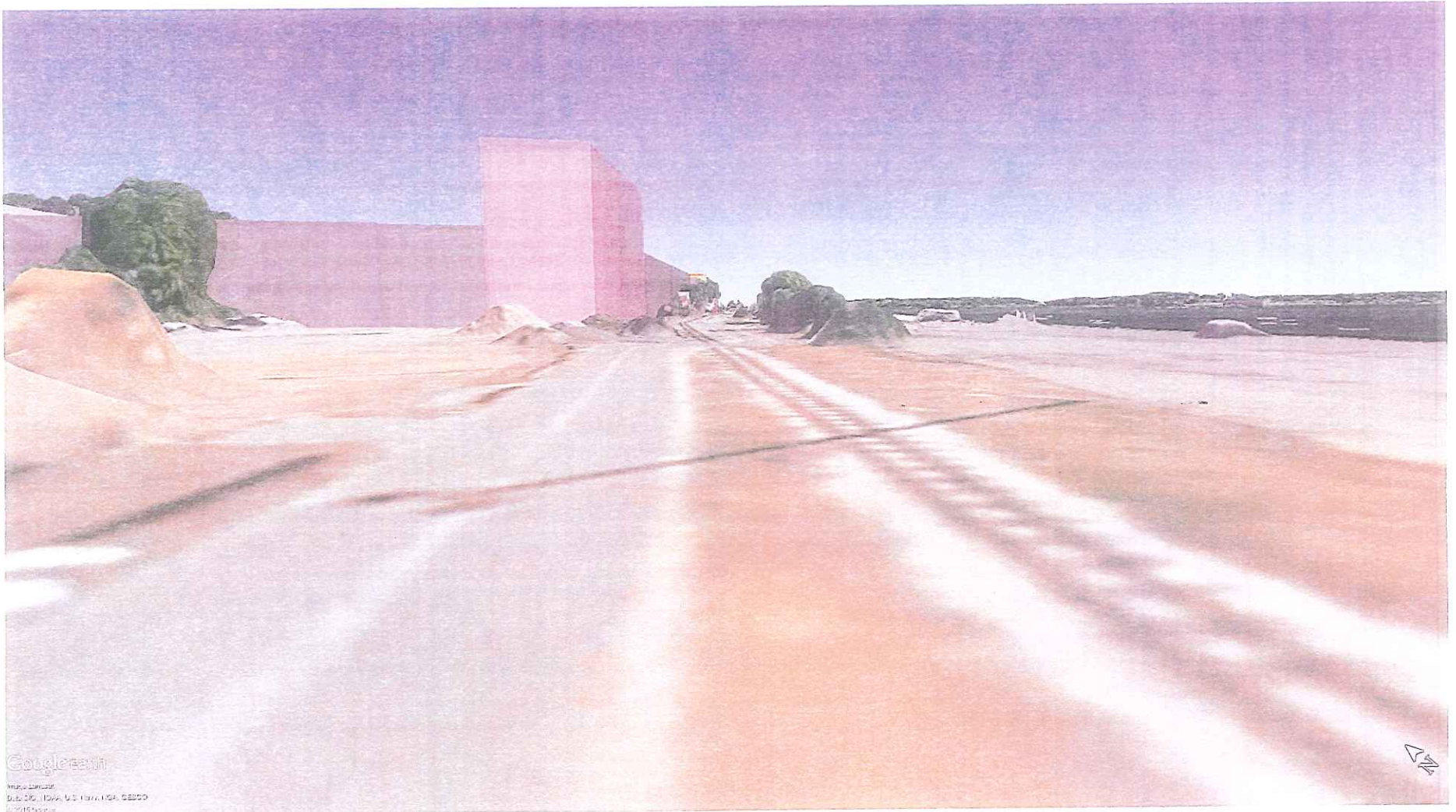
SOUL OF PORTLAND : 02/24/2015
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FORE STREET & WATERVILLE STREET
LIMITS OF PROPOSED B6 RE-ZONING FROM FLOOD PLAIN
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND : 02/24/2015
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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



Google Earth
Image provided
Date: 02/24/2015 11:11 AM PST, 02/24/2015
Coordinates



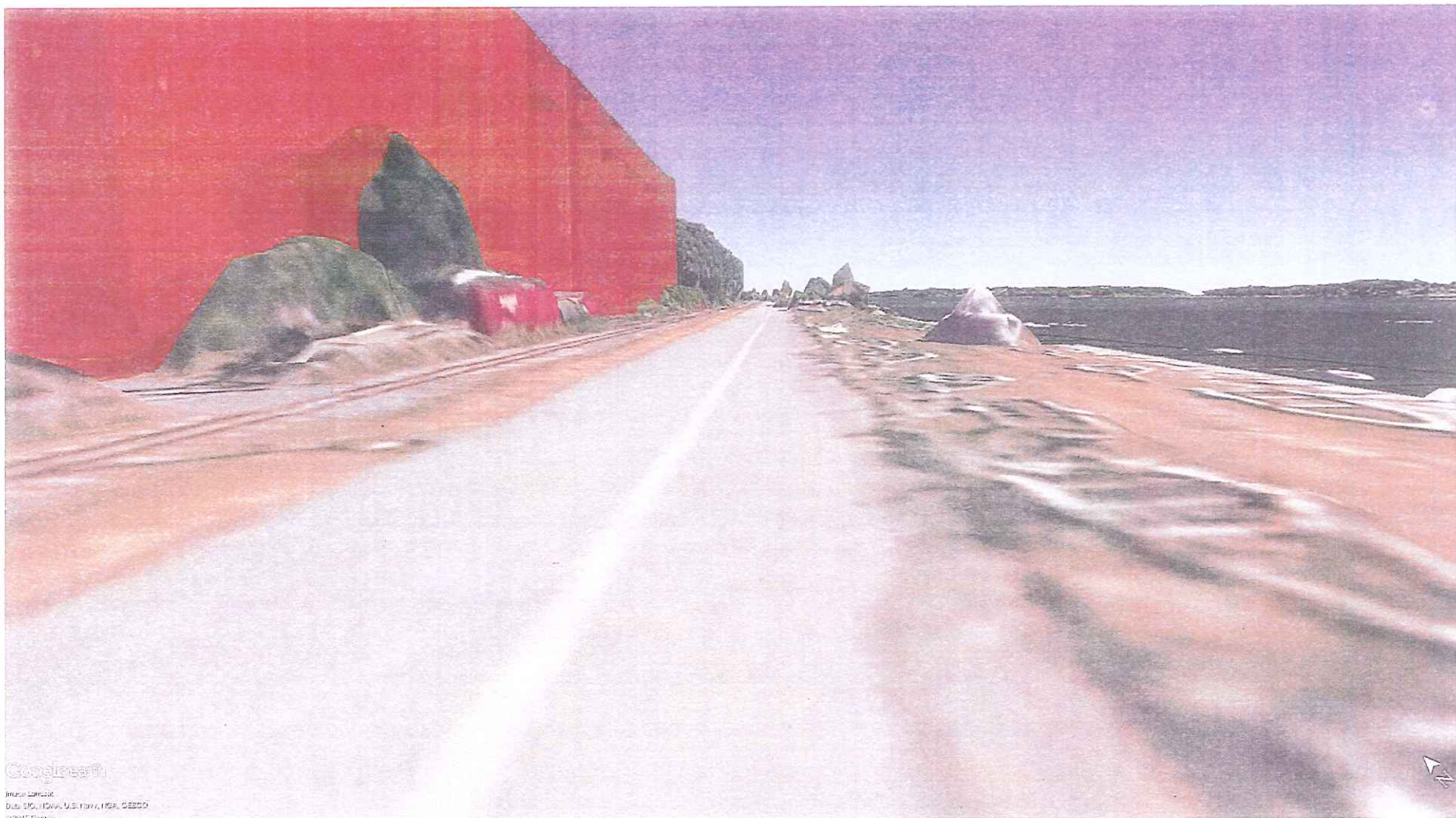
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THAMES STREET & EASTERN PROMENADE TRAIL
LIMITS OF PROPOSED B6 RE-ZONING FROM AVERAGE GRADE (35'X35' GRID)
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



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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



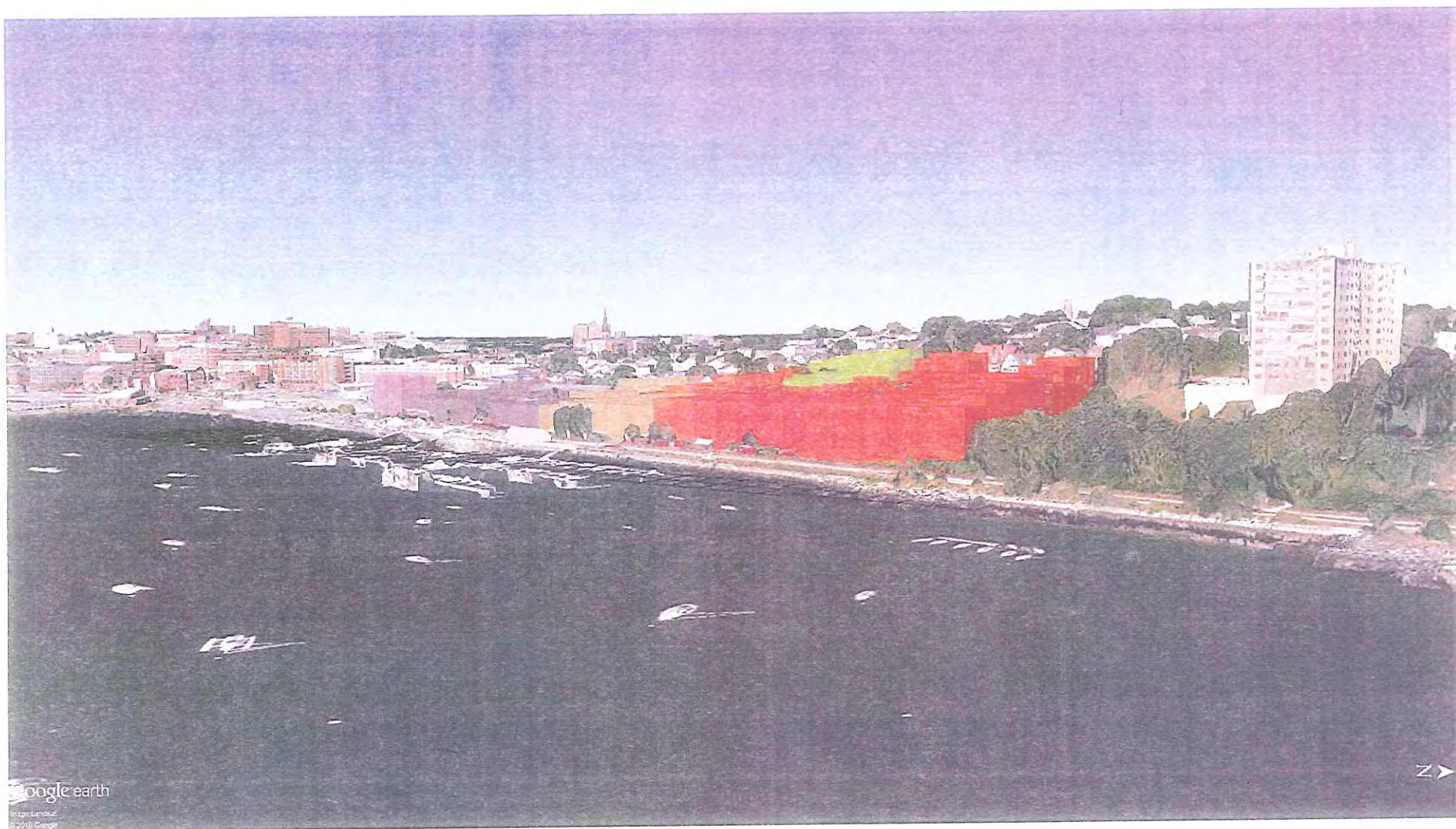
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SOULOFPORTLAND.ORG

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



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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
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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
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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



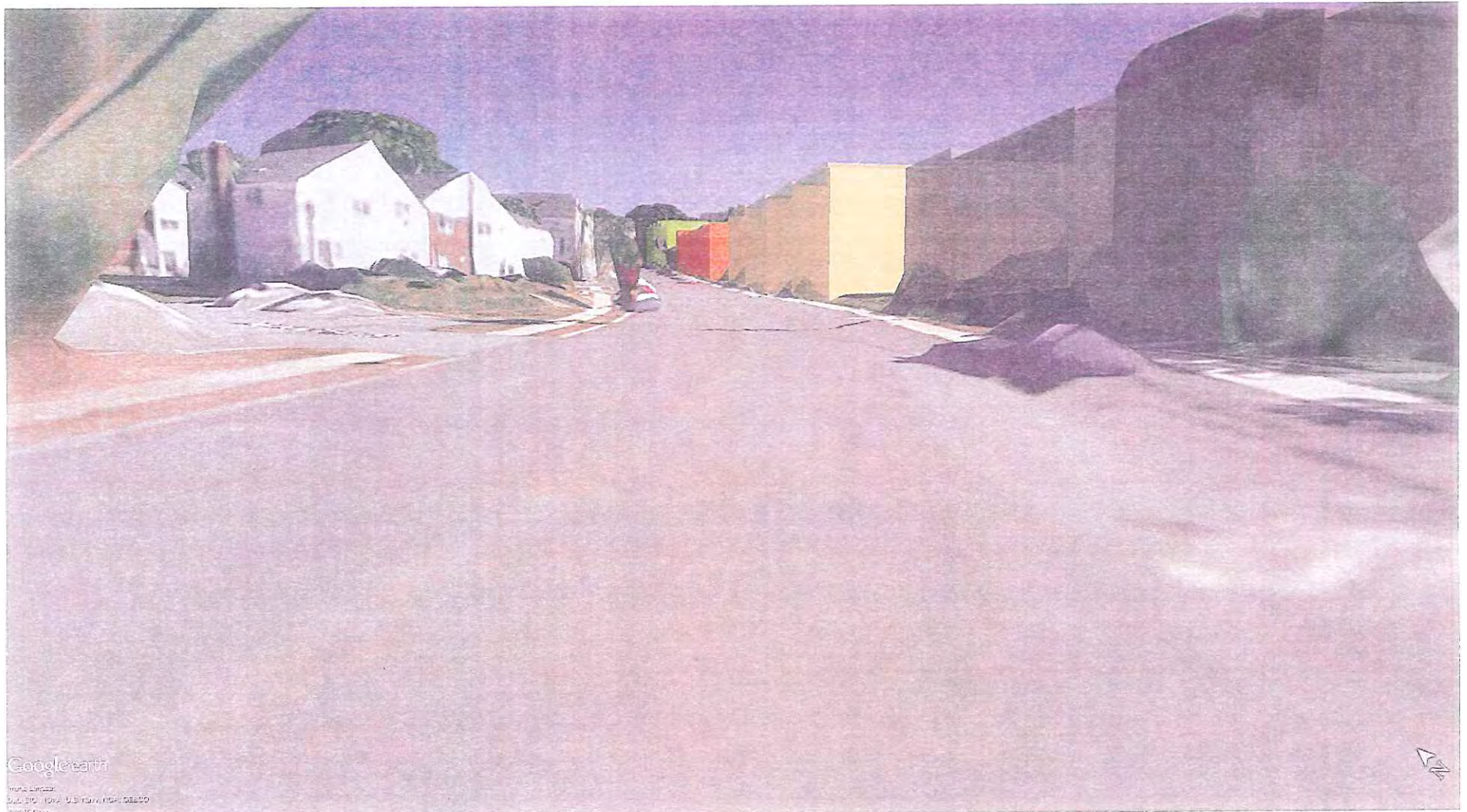
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FORE STREET & MUNJOY SOUTH
LIMITS OF PROPOSED B6 RE-ZONING FROM FLOOD PLAIN
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND : 02/24/2015
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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



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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



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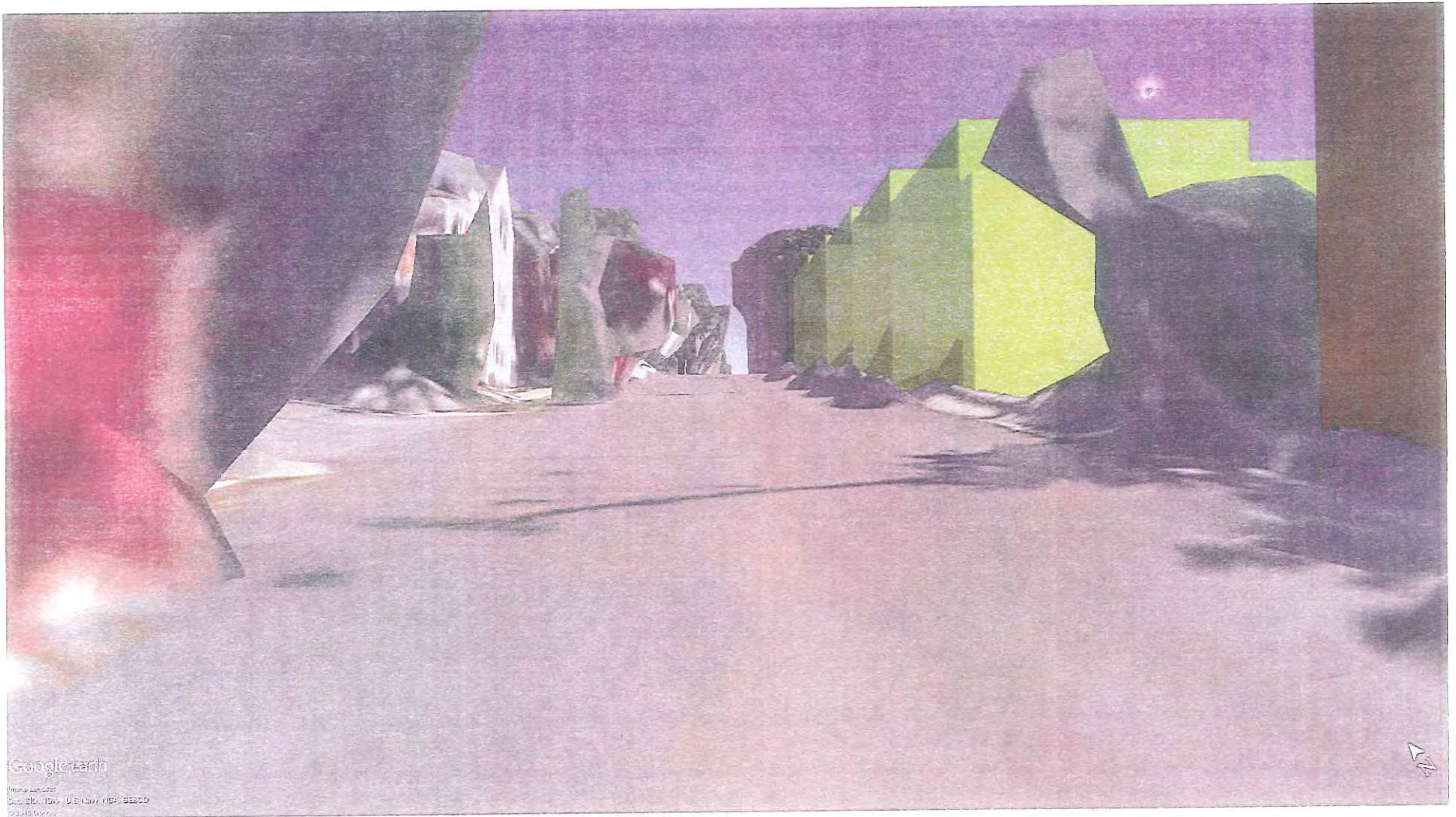
58 FORE STREET
LIMITS OF PROPOSED B6 RE-ZONING FROM FLOOD PLAIN
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

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



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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



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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



Google Earth

Map data © 2015
Imagery © 2015



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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



NOVA LANDSCAPE
DUE TO: 100% U.S. NAVY, 100% DECO
© 2015 NOVA



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



PARLON
L'association pour
la promotion
de la langue
française

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
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U. CHARLES REMMEL, II
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GRAYDON G. STEVENS
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TIMOTHY H. NORTON
MICHAEL A. DUDDY
JOHN A. MCARDLE, III
JENNIFER A. ARCHER
LAURI BOXER-MACOMBER
TIMOTHY E. STEIGELMAN

OF COUNSEL
JOHN N. KELLY
ROBERT E. CROWLEY
JULIUS CIEMBRONIEWICZ

~~City of Portland~~
MAR 19 2015
Office of the Mayor

TELEPHONE
207-775-1020

WATTS
800-540-4212

FAX
207-773-4895

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

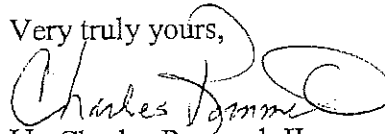
Celebrating Over 25 Years of Service

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 Rummel, II

UCR/kaj

cc: Mary Costigan, Esq.

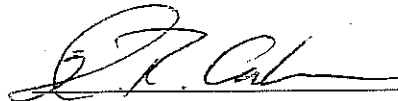
Affidavit Re: Height Measurements in Council Order
79-04/05

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



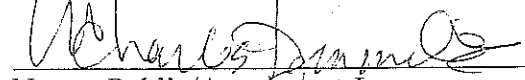
William R. Gorham

STATE OF MAINE, ss.

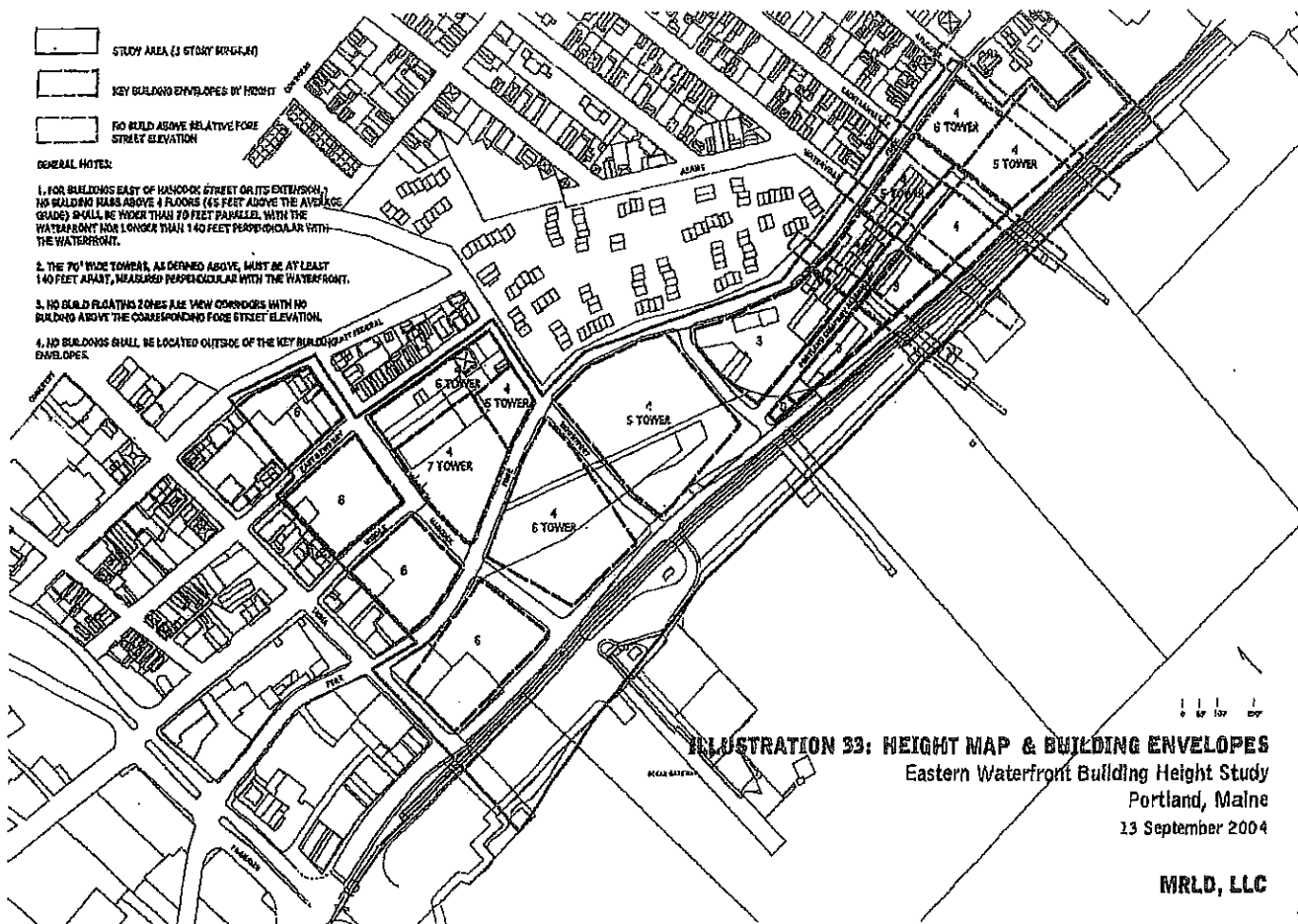
March 18, 2015

Personally appeared William Gorham and gave oath that the foregoing Affidavit is true based on his personal knowledge.

Before me,

A handwritten signature in dark ink, appearing to read "Charles D. Daniels", written over a horizontal line.

~~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.

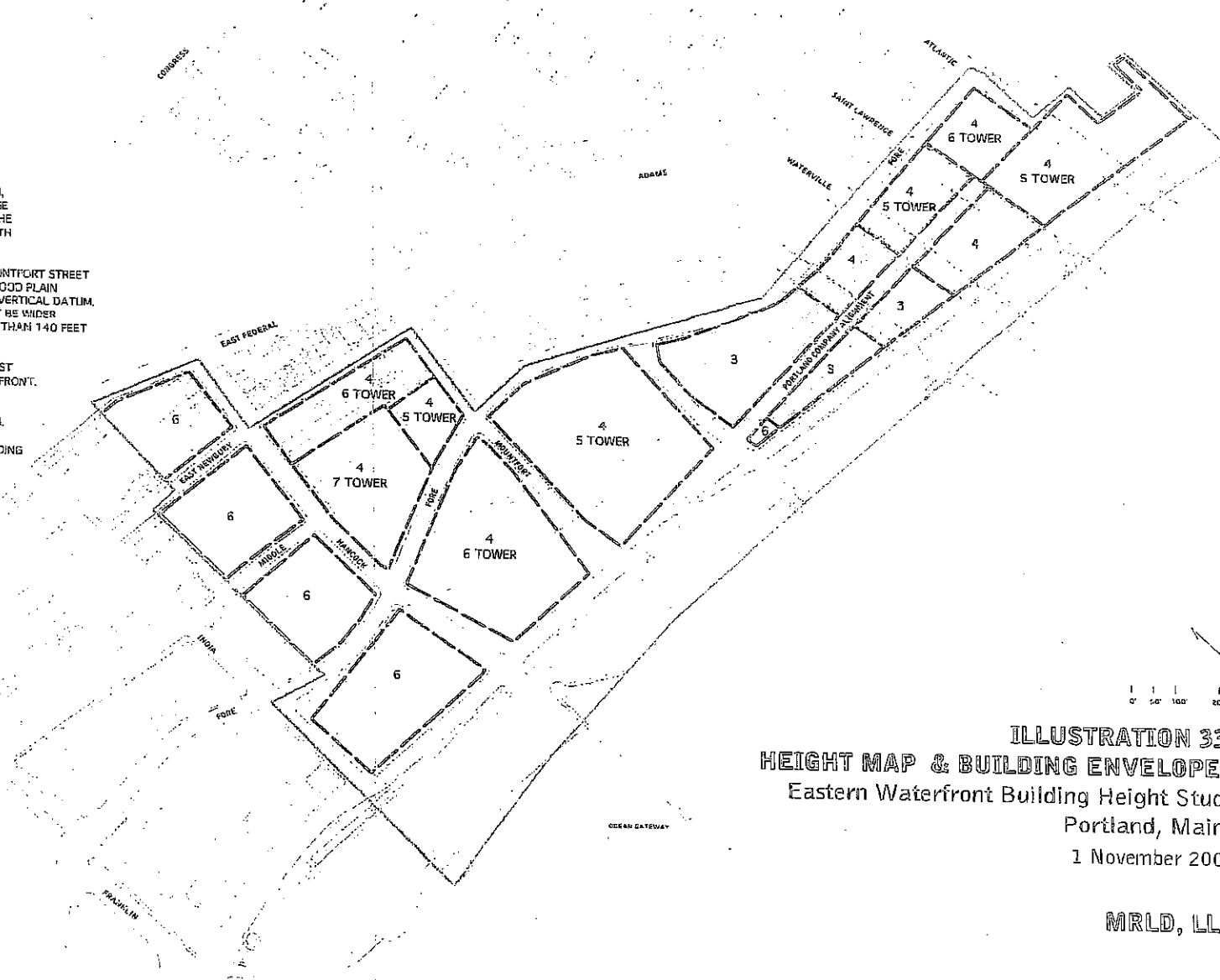


ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

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: Gotchya 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:

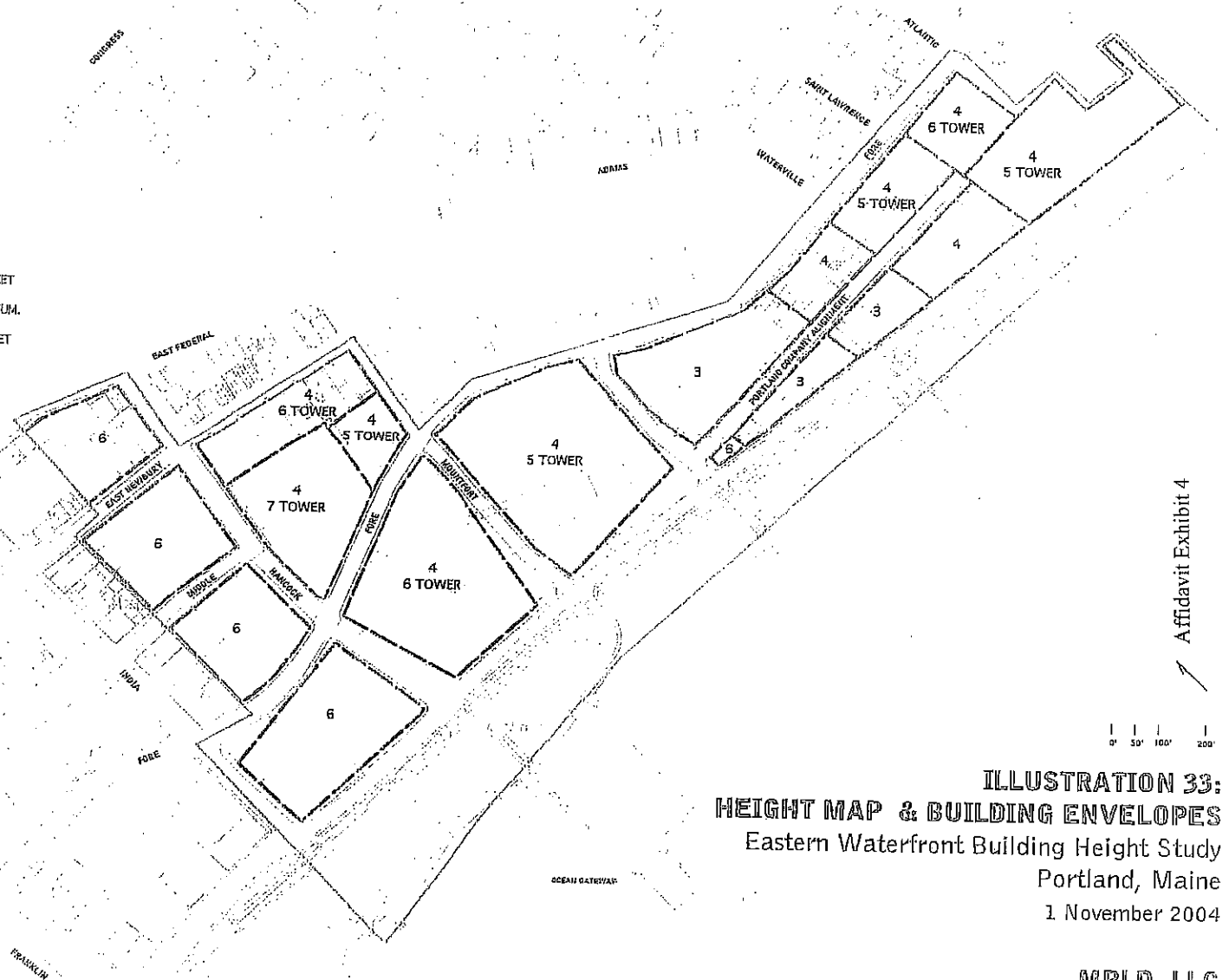
1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.

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5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.



Affidavit Exhibit 4

ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
Eastern Waterfront Building Height Study
Portland, Maine
1 November 2004

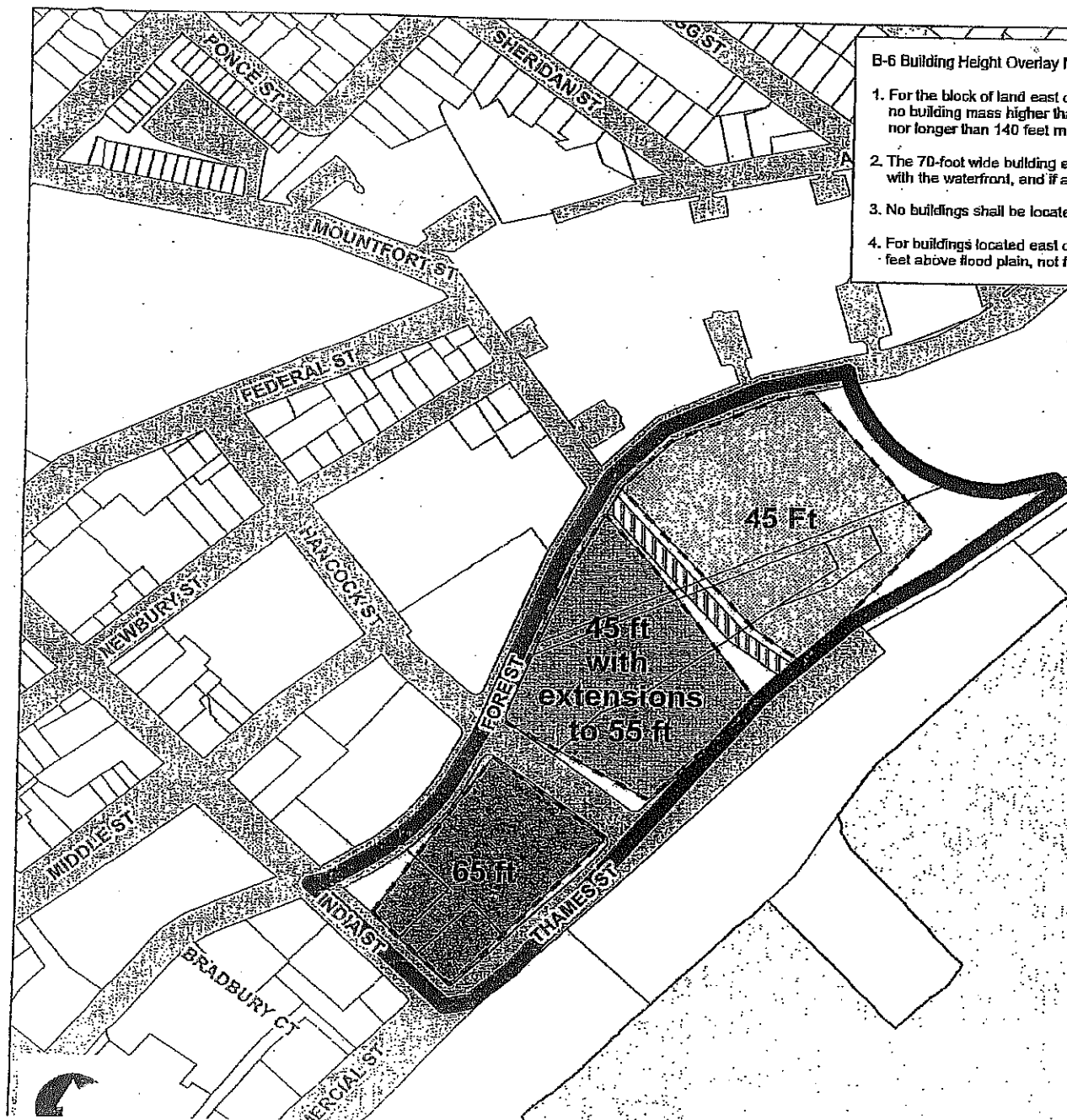
MRLD, LLC

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 Dept. 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

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WEB SITE
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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.

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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.

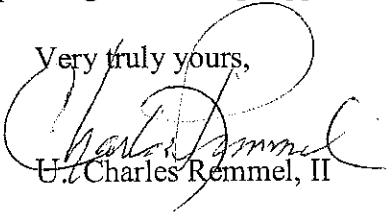
As I indicated in my prior correspondence, and as set out in the Affidavit of a Counselor at the time, the public presentation to the 2004 Council of the height measurement standard from flood plain was clear and unambiguous (see Transcript of public description presented to the public and the Council 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

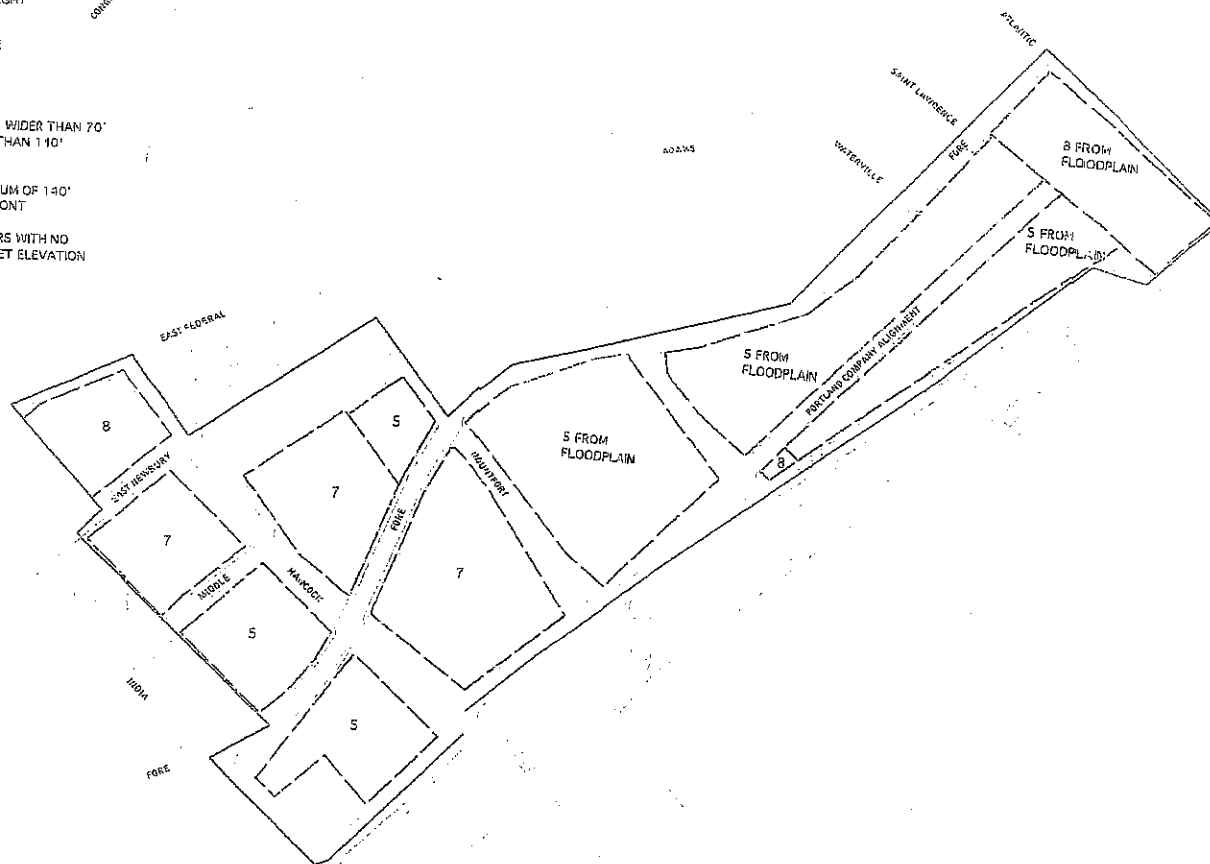


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 August 2004

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

MRLO, 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-5. 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-5 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-5 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/>.

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 3, *Dimensional Requirements* - pages 3-5.

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 reasoning of the Eastern Waterfront, and in future the Height Study will inform zoning 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 Manjoy 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 28 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 south eastern portion of Portland's peninsula. The team has layered proposed street layouts from the Master Plan and additional 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.

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:

[Handwritten signature]

Attachments:

1. Neighborhood Meeting Agenda
2. Neighborhood Meeting Participant 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

These items are being provided to the Planning Board for their review.

STREET (10 STORY MINIMUM)

KEY BUILDING ENVELOPES BY HEIGHT

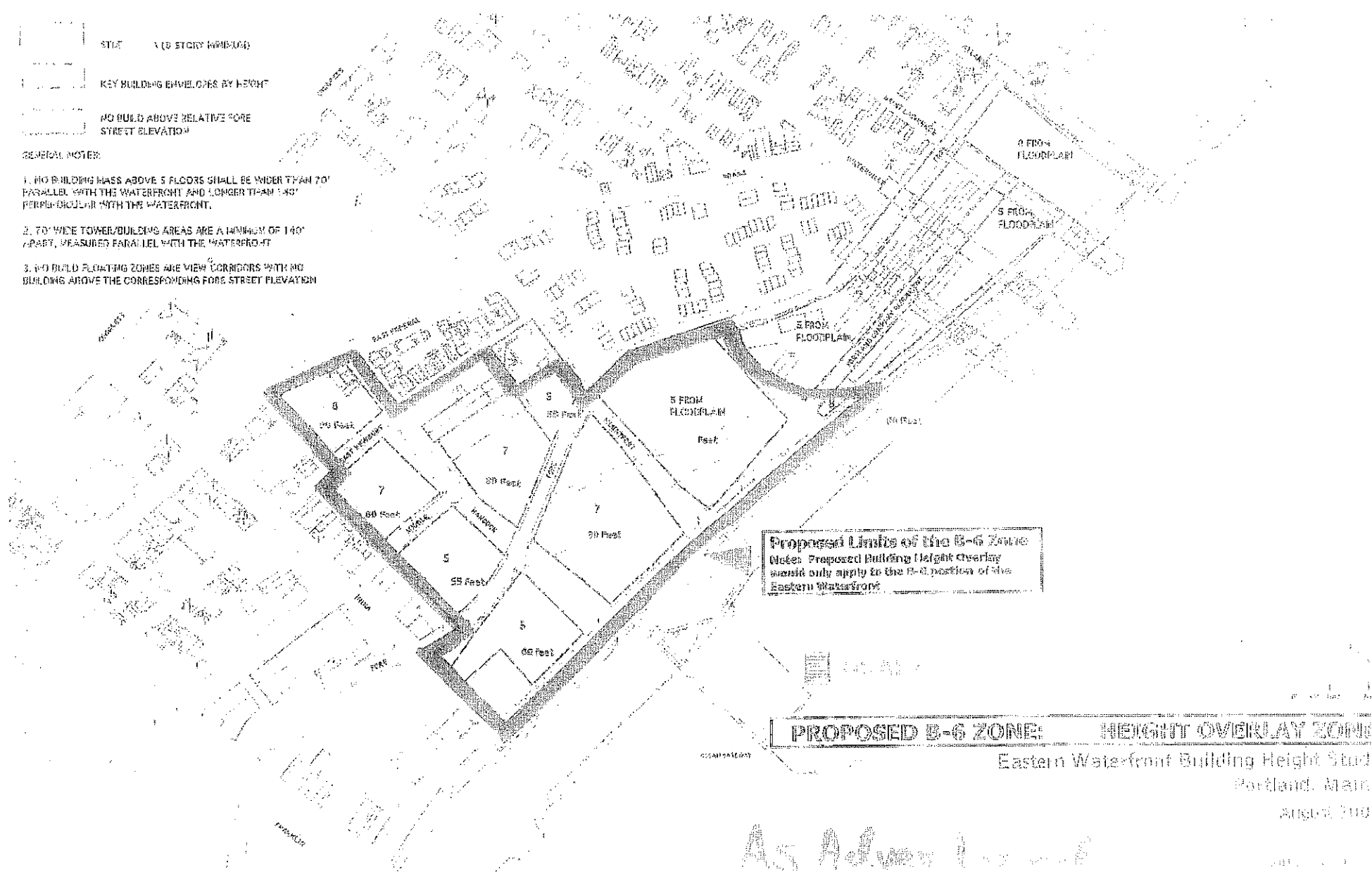
NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

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 FLOWING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION



Proposed Limits of the B-6 Zone
Notes: Proposed Building Height Overlay
would only apply to the B-6 portion of the
Eastern Waterfront

PROPOSED B-6 ZONE: HEIGHT OVERLAY ZONE

Eastern Waterfront Building Height Study
Portland, Maine
August 2000

AS ADVISED

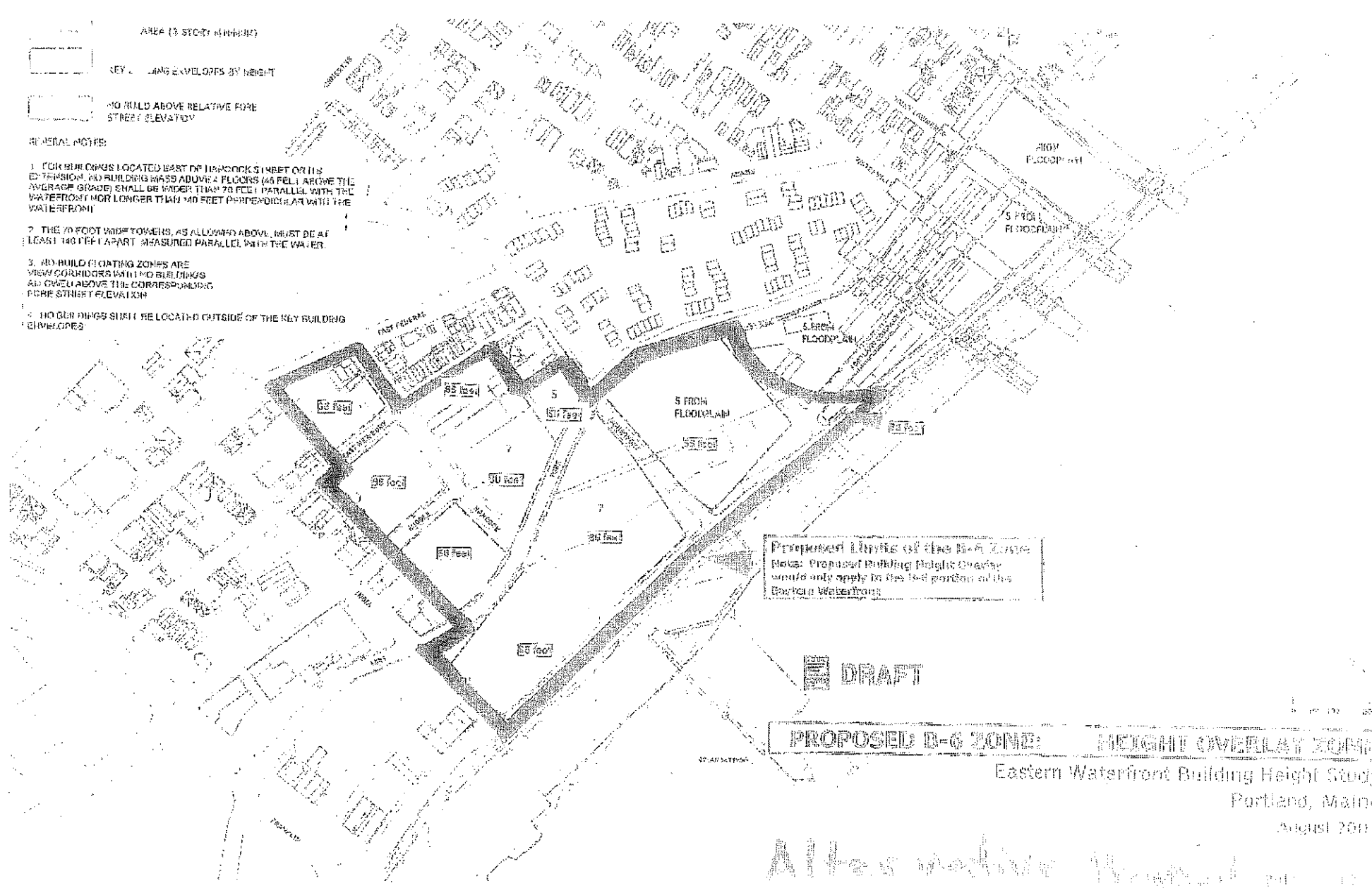
AREA (3 STORY MINIMUM)

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 (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 D-6 Zone.
Note: Proposed Building Height Overlay
would only apply to the 1-6 portion of the
Backus Waterfront.

DRAFT

PROPOSED D-6 ZONE: HEIGHT OVERLAY ZONE

Eastern Waterfront Building Height Study

Portland, Maine

August 2011

Alfonso Martinez

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.

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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>Conner Joyce</u> | <u>12 Morning St.</u> |
| 5 | <u>Johns</u> | <u>108 East Portland St.</u> |
| 6 | <u>Johns</u> | <u>108 East Portland</u> |
| 7 | <u>LAREN Freit</u> | <u>104 BAXTER BLVD #3</u> |
| 8 | <u>Francis Mercier</u> | <u>54 Maple St.</u> |
| 9 | <u>Kilobin Hill</u> | <u>11 Starboard Dr.</u> |
| 10 | <u>Larry Murphy</u> | <u>19 Munjoy Street</u> |
| 11 | <u>Jimmy & Krista Lesale</u> | <u>39 Halenula St.</u> |
| 12 | | |
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NAME	ADDRESS
Mark T. Pisoni	47 Adams St.
Mark J. Pisoni	Portland, ME 04101
GARY M LYNE	121 Munjoy South
1. LYNE	Portland ME 04101
2. NATALIE MCQUINN	121 Munjoy South
3. NATALIE MCQUINN	Portland, ME 04101
4. IAN FACTOR	5 SHERIDAN ST. PORT. 04101
5. IAN FACTOR	
6. IAN FACTOR	11 Sheridan St Portland 04101
7. IAN FACTOR	11 Sheridan St. Portland
8. IAN FACTOR	13 Sheridan St. Portland
9. IAN FACTOR	13 Sheridan St.
10. IAN FACTOR	13 Sheridan St Portland
11. IAN FACTOR	24 Sheridan St. Portland
12. IAN FACTOR	24 Sheridan St. Portland
13. IAN FACTOR	24 Sheridan #1 Portland
14. IAN FACTOR	29 Sheridan St. #3 Portland
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NAME

ADDRESS

1 Bonnie Blythe	31 Fore St. Portland
2 Meghan Blythe Cook	31 Fore St Portland
3 Daniel Dickson	31 Fore St., Portland
4 Thom Dwyer	31 Munjoy South
5 Wanda Owen	38 Munjoy South
6 Carol Weiss	32 Munjoy South
7 Kim Le Clair	41 Munjoy South
8 Laura B. Poulton	133 Munjoy South
9 Dragon Poulton	132 Munjoy South
10 Ray Poulton	135 Munjoy South
11 Susanne Rabier	4 Munjoy South
12 Michel YABO	9 Munjoy South
13 Cindy Kennedy	14 Munjoy S.
14 Jono Litrone	13 Munjoy S.
15 Lynn Giff	19 Munjoy S.
Ko Amanda Dorsey	18 Lambert St.

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NAME

ADDRESS

1	Sara Walsh	1 Ponce St. Portland, 04101
2	Peter S. Hannigan	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 Kahlen	11 Ponce St. Portland ME 04101
6	Brian W Coleman	18 Ponce St Portland ME 04101
7	Robert Alter	20 Ponce St Portland ME 04101
8	Catherine Capron	55 Mountfort St Portland
9	Emily Ford	57 Mountfort St Portland
10	Roma W. Castaneda	65 Mountfort St.
11	Joseph Earles	67 Mountfort St.
12	Antonio Palfonso	71 Mountfort
13	Jacqueline A. Lipps	73 Mountfort St
14	Christopher Youngblood	75 Mountfort St.
15	Robert Richard	22 Ponce St

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	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	Nadia Atchings	64 Munjoy S.
6	Wichesept Smith	116 Munjoy Hill / Munjoy South
7	Vickie Hamilton	115 Munjoy South / Portland, ME. 0401
8	Mart Bol	114 MUNJOY SOUTH
9	Lam P. Ue	114 MUNJOY SOUTH
10	WILLIAM McDONALD	110 MUNJOY SOUTH
11	Christine S. Meelee	108 MUNJOY SOUTH
12	Candice Johnson	103 Munjoy South
13	Paul Johnson	103 MUNJOY SOUTH
14	Paul & Susan	87 Munjoy South
15	Melissa McCarver	910 Munjoy South Portland

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NAME	ADDRESS
1. Mark's Miller	17 Atlantic St 04109
2. Pauline French	14 Sheridan St 04101
3. Ruth Lambing	10 Sheridan St 04101
4. Sam Stinson	11 Sherman St.
5. Sam Gennell	11 Sheridan St
6. Tony Caterina	56 Waterville St
7. Antoinette Caterina	56 Waterville St
8. Marie Gurney	32 Bernard Rd
9. Rita Brown	12 St. Lawrence St
10. Imph Phuan	16 St. Lawrence St.
11. Ann Stillard	20 St. Lawrence St.
12. Gloria McEale	28 St. Lawrence
13. Paul J. Waller	36 St. Lawrence St.
14. Paul J. Waller	41 St. Lawrence St.
15. Victoria Lambert	" " "

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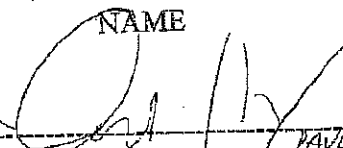
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NAME	ADDRESS
1 S. Kenneth Simmons	99 Atlantic St. #2
2 Michael Feldman	93 Atlantic #1
3 C. P. Tully	54 Atlantic
4 Jay Grant	55 Atlantic St #6
5 J. J. Wallace	52 Atlantic St #1
6 B. W. Lee	52 Atlantic St
7 Aimee DeWitt	50 Atlantic St. #1
8 Mark Klob	50 Atlantic St. #2
9 Louis Brownstein	75 Wilson #7
10 Scott Hume	13 Atlantic #3
11 Robert Johnson	156 Congress St #4
12 Peter Mettall	60 Atlantic St
13 Allison Carey	60 Atlantic St
14 Lynn Marshall	62 Atlantic St
15 Judith Lambert	61 St. Lawrence St

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	NAME	ADDRESS
1	 DAVID ARMSTRONG	61 ST. LAWRENCE
2	BOB WILSON	61 ST. LAWRENCE
3	Christine Sullivan	61 ST. LAWRENCE
4	PATRICK RICHIE	41 ATLANTIC ST.
5	Rachel Burgee	33 Atlantic St.
6	Sheila Emple	29 Atlantic St.
7	TON COURTNEY	34 ATLANTIC ST.
8	Monika Langman	20 ATLANTIC
9	Kara Williams	20 Atlantic.
10	Timothy Spalding	28 Atlantic St. #1
11	Lisa Carey	28 Atlantic St. #1
12	ROBERT NOBLE	19 ATLANTIC ST
13	Samantha Fling	17 Atlantic St. #3
14	Jessica Smith	17 Atlantic St. #1
15	Jonathan Beal	17 Atlantic St. #1

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	NAME	ADDRESS
1	Samuel Baxter	50 Waterfront 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 Wilson St	04101
9	14 Wilson 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 Bruffard	60 Munjoy St. Apt. 3 04107
15	Russell Sells	65 Wilson St

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	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	Sarah Ann Phinney	46 Morning St.
6	Ron Betting	23 O'BRIEN ST.
7	Robert	159 OBRION ST
8	Jeffrey 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	Mandall Patheken	22 Eastern Promenade
15	Francis Cloutier	Munjoy Street

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	NAME	ADDRESS
1	Mary J. Guimond	13 WATERVILLE ST
2	Lyle Fidler	13 WATERVILLE ST.
3	Julie May	43 OBLION ST.
4	Cassandra Hickman	28 WATERVILLE ST.
5	Eric Dm	25 WATERVILLE ST.
6	Bob Wy	25 WATERVILLE
7	Pam Chamberlain	23 WATERVILLE ST.
8	John Knight	23 WATERVILLE ST.
9	Robert Hestart	29 WATERVILLE ST.
10	Michael C. Conolly	36 WATERVILLE ST.
11	Rebecca Hitchcock	36 WATERVILLE ST. #4
12	Robert Small	17 WATERVILLE ST. 2#
13	Jane Murphy	28 WATERVILLE ST. 28
14	Jack Switzer	41 WATERVILLE ST.
15	Doris P. Hyman	62 WATERVILLE ST.

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	NAME	ADDRESS
1		96 Vesper Apt. 1
2		96 Vesper Apt 1
3	Muelle Dore	96 Vesper Apt 1
4	MANANTHA THACKER	96 Vesper Apt. #2
5		96 Vesper #2
6		86 Vesper st.
7		82 Vesper st #1
8		80 Vesper St #1
9		76 Vesper st #1
10	Ann Jarstad	79 Vesper St #1
11		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 ST.

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NAME	ADDRESS
1. <i>[Signature]</i>	22 Cumberland Ave #1 04101
2. <i>[Signature]</i>	22 Cumberland Ave 04101
3. <i>Richard Janis</i>	19 Munjoy St 04101
4. <i>Karen [Signature]</i>	22 Atlantic St 04101
5. <i>Amy Kurtz</i>	28 Eastern Promenade Pld 04101
6. <i>Bruce Verrill</i>	64 Eastern Prom Pld.
7. <i>Angie Hopper</i>	10 Morning St. Pld
8. <i>Peter A. Christensen</i>	120 E. Promenade #3
9. <i>Paul Sorenson</i>	93 Morning St.
10. <i>Becky Mueller</i>	125 Grant St.
11. <i>Debra Thorsen</i>	363 PREBLE ST.
12. <i>Mary Anderson</i>	829 Stevens Ave, Pld
13. <i>Dorothy Hansen</i>	829 Stevens Ave, Portland
14. <i>Adam Gamache</i>	1st Brunswick
15. <i>Alicia Johansen</i>	1st Brunswick

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NAME	ADDRESS
1. Erik Bjorkdahl	66 Waterville St Apt. 2
2. Adrienne Balzano-Brooks	66 Waterville St #2
3. Carl Balinski	70 Waterville St. #2
4. Jennifer Jendry	65 Waterville St 2nd Fl.
5. Margaret Danahue	70 Morning St.
6. Maria A. Jorgensen	79 Morning St
7. Zeke Jorgan	93 Morning St. #1
8. Kathleen Carey Bailey	93 Morning St. #2
9. Joe R. Brette	11 Moody St. #1
10. Cynthia Stewart	51 Morning St
11. Carol S. Con	51 Morning St #2
12. Amanda B. Ross	51 Morning #2
13. John Hill	13 Waterville Street
14. Eric McLeod	36 Waterville St
15. Chris Colmier	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.

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NAME

ADDRESS

1	Michael Robert O'Brien	4 St Lawrence St Apt 2
2	Dwaine Christian	27 Munjoy St.
3	Tom BROKIVA	413 MUNJOY ST.
4	Jim Hume	89 Vespa St
5	Joe & Peg	97 Munjoy St.
6	Paul Morrison	82 Munjoy St.
7	Kim Soler	20 Munjoy St.
8	Sam Jarama	74 MUNJOY ST. #2
9	Sarah Pile	60 Munjoy St #2
10	Tim J. Mitchell	26 Monument St.
11	Will Christensen	10 Munjoy #1
12	Salem Whiddon	18 Munjoy St. #1
13	Leslie Sorenson	20 Munjoy St #1
14	Gene & Peg	88 Carleton St. #3
15	John Sorenson	88 Carleton St. Apt #3

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NAME

ADDRESS

1	Alexus Bond	12 O'BRIEN St
2	Elizabeth Dickinson	17 Quebec St.
3	Kosta Suli	12 O'Brien St
4	Meeri PAGE	12 O'BRIEN ST.
5	Lori VOORNAS	15 AD O'BRIEN ST.
6	Tim Dodson	22 O'Brien St. # 2
7	Gerrie Rogers	22 O'Brien St Portland ME 04101
8	Jeff BRINGLE	28 O'BRIEN ST #1
9	Felicia Fahey	30 O'Brien, Portland 04101
10	Adam Platti	30 O'Brien, Portland 04101
11	James ROBERS	22 O'Brien, Portland 04101
12	Meghan Pizzolato	39 O'Brien St. Portland 04101
13	Liesl A. Miller	43 O'Brien St. Portland 04101
14	Heath E. NADEAU	63 WILSON APT. B PORTLAND 04101
15	Maria Lord	8 Sherbrooke St Portland 04101

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NAME	ADDRESS
1. Angela M. Dambrie	8 Kellogg St., Portland, ME
2. Stephannie Dambrie	8 Kellogg St., Portland, ME
3. Sheila Marshall	5 Kellogg St Portland Me.
4. Anthony Harrison	18 Kellogg St
5. Ted Doon	12 Kellogg St.
6. Darryl Welch	18 Kellogg St.
7. Dan McElchey	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. Cheryl 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 KELLOGG ST
15. Erik Voss	43-KELLOGG ST

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	NAME	ADDRESS
1	<u>Paula A. Kaulin</u>	<u>45 Kellogg St</u>
2	<u>Khadija</u>	<u>47 Kellogg St</u>
3	<u>Muhubo Alim</u>	<u>49 Kellogg St.</u>
4	<u>Meela Al-Donato</u>	<u>51 Kellogg St.</u>
5	<u>Edith Lelela</u>	<u>55 Kellogg St</u>
6	<u>Isabel Russell</u>	<u>61 Kellogg St. Apt 1</u>
7	<u>Asha Ahmed</u>	<u>618 Kellogg St</u>
8	<u>Wedad Ahmed</u>	<u>53 Munjoy South</u>
9	<u>Jahar Jari</u>	<u>38 Kellogg St</u>
10	<u>Kathryn Heisel</u>	<u>37 Kellogg St apt. 3</u>
11	<u>Eli Johnson</u>	<u>22 Kellogg St.</u>
12	<u>Elizabeth McConnell</u>	<u>18 Kellogg St.</u>
13	<u>Katie Zettek</u>	<u>18 Kellogg St</u>
14	<u>Mary J. Bennett</u>	<u>17 Kellogg St</u>
15	<u>Emory D. Bennett</u>	<u>17 Kellogg St</u>

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	NAME	ADDRESS
1	Mary DeBartolo	19 Kellogg St
2	Molly Watson	18 Kellogg St
3	Edmund J. Donohue	24 Kellogg St.
4	Phyllis	24 KELLOGG ST
5	Ann J. Adams	39 Kellogg St.
6	Eric Kohlbaum	17 Ray St
7	Amanda Mahoney	43 St. Lawrence
8	Cecilia Sullivan	17 Ray St.
9	Leigh Currier	39 Kellogg St., #2
10	Cheryl Petty	5 Kellogg St #1
11	Sam Loeb	28 Kellogg St
12	Ryan L. Bergman	39 Kellogg St #3
13	Oliver Bradshaw	39 Kellogg St #1
14	Keith Harty	47 Vesper St.
15	Katrina Taylor	82 Munjoy Street #2

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	NAME	ADDRESS
1	<i>[Signature]</i>	32 Turner St.
2	<i>[Signature]</i>	61 Kellogg St #3
3	Laura Buffi <i>[Signature]</i>	60 Kellogg St.
4	Kern Cathers	60 Kellogg St.
5	Lucia Rowe	76 Monument St.
6	<i>[Signature]</i>	84 Monument St.
7	Christopher Bastick Sr	85 Monument St
8	Toni Bastick	85-1 Monument St
9	Janya Desjardins	141 Fore St
10	Ani Bahete	99 Monument St.
11	Troy KERR	99 Monument St.
12	<i>[Signature]</i>	77 Monument St
13	<i>[Signature]</i>	103 Monument St. #2
14	Jana Lee Wicks	105 Monument St #1
15	Wigmina McCann	477 Monument St

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NAME	ADDRESS
1. William R. Gorham	34 North St
2. Jay Xorham	34 North St
3. Greg Wood	115 main ST
4. Jessica Wason	115 main ST
5. HUNG GING	240 HARVARD ST
6. Alan Thompson	21 Orange ST
7. STEPHEN R. SMALL	15 SUMMER ST.
8. Stephen R. Small	1202 Douglas St.
9. [Signature]	240 Court St. UMass NH
10. [Signature]	130 Douglas
11. Tressa Pendleton	54 Maple St
12. Robert Vance	88 Treble St
13. [Signature]	110 No Park RR Cope
14. [Signature]	15 Green St
15. [Signature]	

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NAME

ADDRESS

1	Pat S. Napolitano	12 St Lawrence St
2	Muriel J. Napolitano	12 St Lawrence St
3	Thomas C. Herbert	4 St Lawrence St
4	Frank T. Herbert	17 St Lawrence St
5	Brenda A. Moran	194 Bolton Street
6	Wendy W. Moran	194 Bolton St
7	Kimberley Ceyen	87 Eastern Promenade
8	Vicky C. H.	120 Spring St Apt 1
9	Wm H. Ly	67 Atlantic Street
10	Pat C. Hym	1 St. Lawrence Street
11	James Gifford	108 Cumberland Ave
12	Dan Gifford	110 Cumberland Ave
13	Judy Cronin	7 Gilbert Ln
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NAME

ADDRESS

- | | | |
|----|-----------------------|----------------------------|
| 1 | Anna R. Romano | 36 Morning St. |
| 2 | Mary M. Mullen | 42 Morning St. |
| 3 | Sam Conner | 416 Morning St. |
| 4 | R. J. L. | 33 Morning St. |
| 5 | S. McKernan | 33 Morning St. #113 |
| 6 | Ned Hutchings | 27 Morning St. |
| 7 | Allen Lehman | 25 Morning St. # |
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	NAME	ADDRESS
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	Berardette Wilson	31 Sheridan #1
10	Wai Johnson	13 Sheridan #1
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NAME

ADDRESS

1 Rebecca Dannelly

123 Munjoy South, 0410 MB 0410

2 Cheryl Ann Pulsoni

47 Adams St Port. 04101

3 Maria-Theresa Pulsoni

11 Adams St Port 04101

4 Mary R. Pulsoni

11 Adams St Portland, 04101

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NAME

ADDRESS

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|----|-------------------------|--------------------|
| 1 | <u>Barbara E. Gooch</u> | <u>92 Pence St</u> |
| 2 | _____ | _____ |
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NAME

ADDRESS

1	GREGORY W. DISMORE	20 TURNER ST APT 2 04101
2	Joseph A. Balzano	39 Munjoy St 04101
3	LISA BRADLEY	52 MOODY ST. 04101
4	Brian Verrell	75 Congress St 04101
5	Danica Perna	25 Fox M. Unit 2
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NAME

ADDRESS

1	Nancy Tuttle	13 Atlantic St
2	Tracy Tuttle	13 Atlantic St.
3	Geri Mallick	16 Atlantic St.
4	Holly Donovan	21 Monument
5	Maryna Gregory	7 Atlantic
6	Kevin Cole	22 Atlantic St
7	Daniel C. Cook	92 St. Lawrence St.
8	Joe Morgan	92 St. Lawrence St.
9	Jean Sullivan	90 St Lawrence St
10	Matthew Anderson	41 Monument St.
11	Ernest A. Ulla	41 Monument St.
12		
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	NAME	ADDRESS
1	Anna L. Romano	36 Morning St.
2	Mary M. Mullen	42 Morning St.
3	Samuel L. Mullen	46 Morning St.
4	R. J. L.	33 Morning St.
5	S. McKernan	33 Morning St. #13
6	Nail Hutchinson	27 Morning St.
7	Ann Lehman	25 Morning St. @
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NAME

ADDRESS

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19 ALINDOY ST #2

Neighborhood Petition to City of Portland Planning Board

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NAME

ADDRESS

- | | | |
|----|------------------------|------------------------------------|
| 1 | <u>James Lowe</u> | <u>53 Monument St, Portland</u> |
| 2 | <u>John W. Rourke</u> | <u>53 Monument St, Portland</u> |
| 3 | <u>P. Mc</u> | <u>83 St Lawrence St, Portland</u> |
| 4 | <u>Kishali Mangani</u> | <u>26 Monument St</u> |
| 5 | <u>Lucy Renard</u> | <u>1 Monument St, Portland</u> |
| 6 | <u>Wendy Ali</u> | <u>12 Kellogg St #1 Portland</u> |
| 7 | <u>Angela Ali</u> | <u>12 Kellogg St #1 Portland</u> |
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	NAME	ADDRESS
1	Michael J. New	12 Vespa Street
2	Karen K. Harris	34 Munjoy Street
3	Sam W. Smith	62 Atlantic St
4	Russell Croston	60 Atlantic St
5	Sam W. Smith	60 Atlantic St.
6	Sam W. Smith	73 Atlantic St.
7	Sam W. Smith	75 ATLANTIC
8	Sam W. Smith	68 ATLANTIC
9	Robert Bull	68 ATLANTIC ST.
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NAME

ADDRESS

1	Linda Lajoie	110 St. Lawrence St.
2	Heath Trethow	3 St. Lawrence Shebrak St
3	Mark Chase	62 St. Lawrence St.
4	Elizabeth Sheehan	16 St. Lawrence St.
5	Richard Lajoie	10 St. Lawrence St.
6	Nage Gray	75 Congress St.
7	Nathaniel Dudley	75 Congress St.
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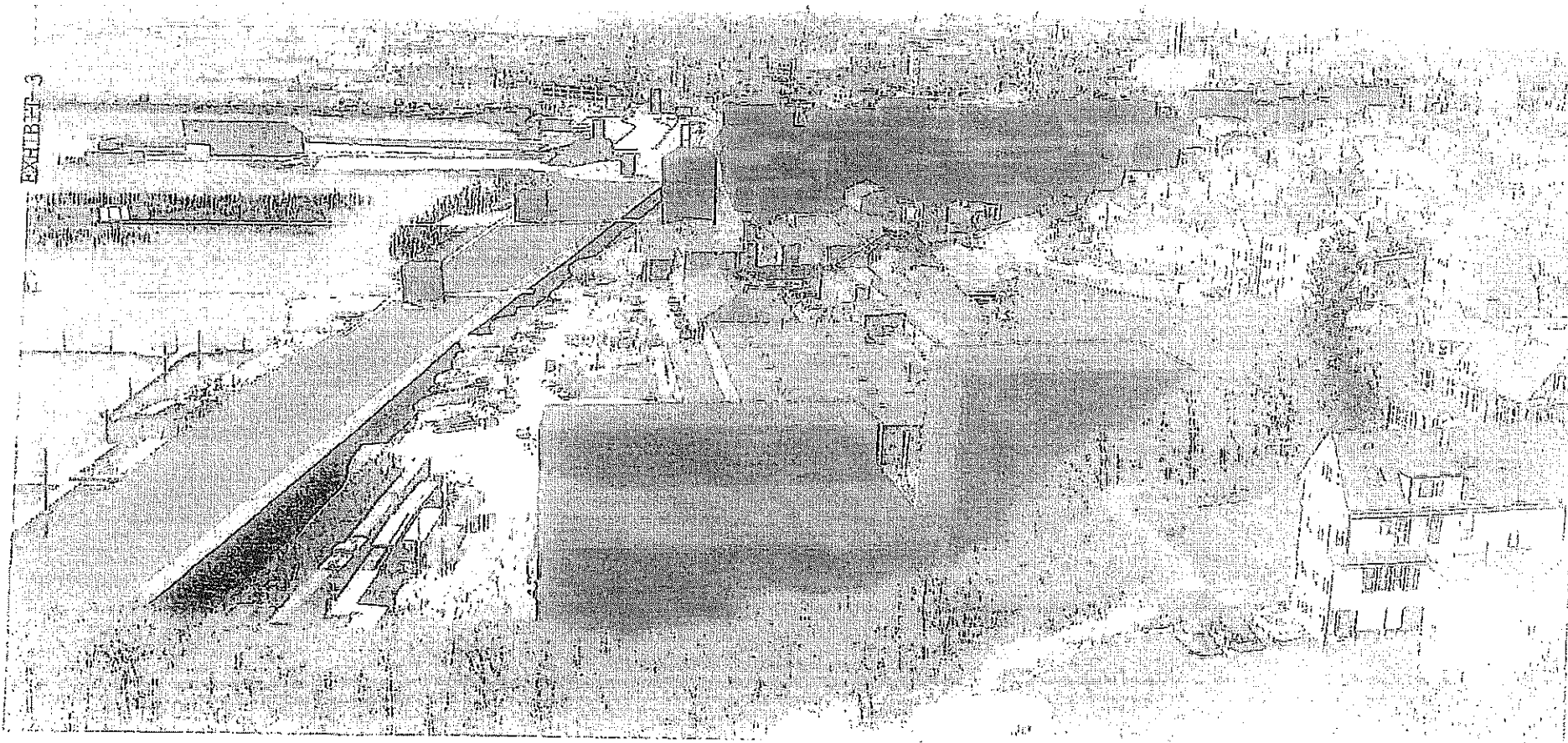
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	NAME	ADDRESS
1	Andrew Clark	78 Munjoy St.
2	Stephanie Larso	83 Munjoy St.
3	Buddy Lakin	
4	Christa Clark	96 Munjoy St.
5		
6		
7		
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EXHIBIT-3



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.)

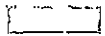
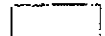
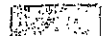
Attachments:

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

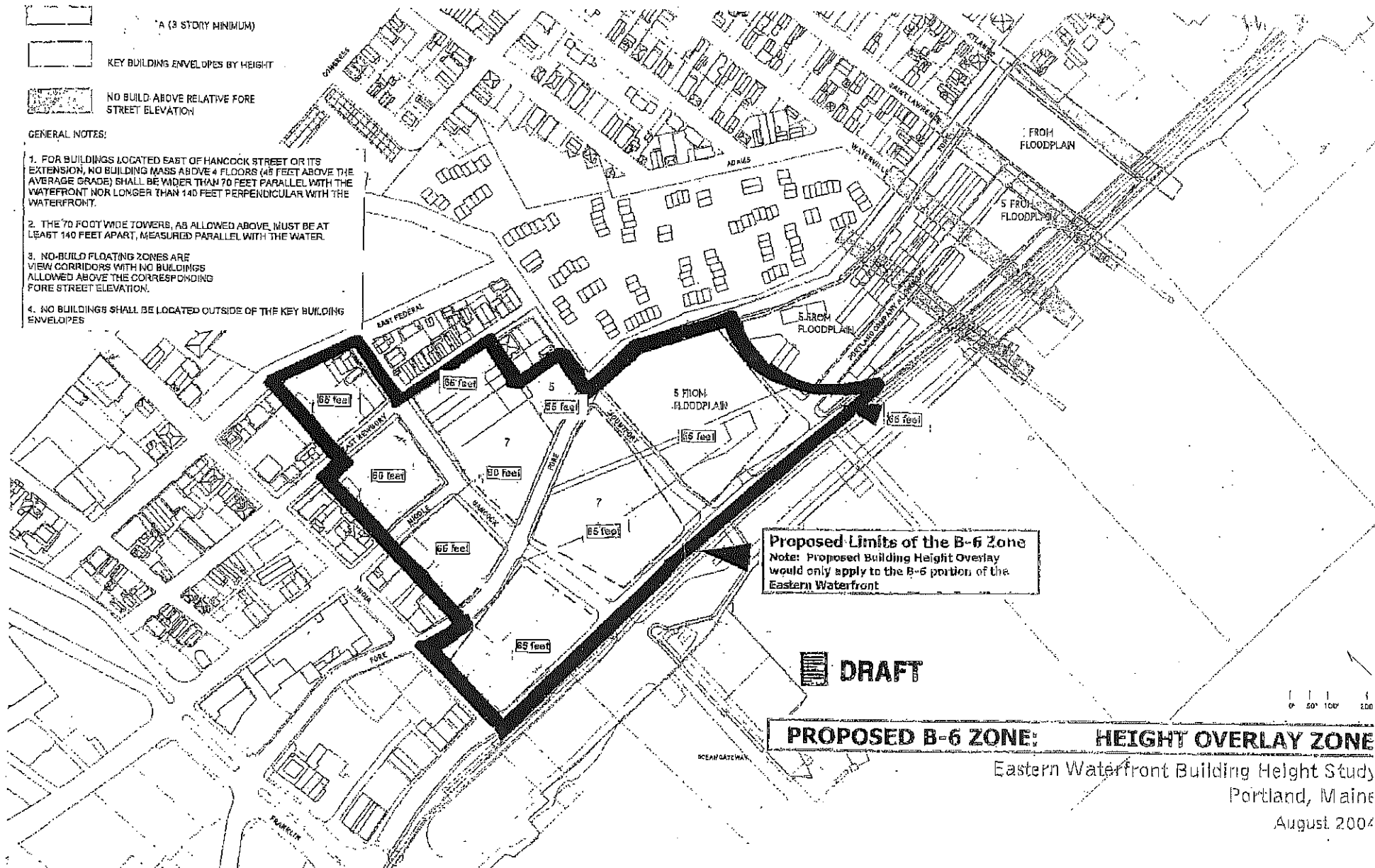
Eastern Waterfront Master Plan Report, including:

- | | |
|-------------|--|
| Appendix A. | Definitions |
| Appendix B. | Public Process Timeline and Narrative |
| Appendix C. | Eastern Waterfront Design Guidelines |
| Appendix D. | Eastern Waterfront Building Height Study |

-  1A (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



Proposed Limits of the B-6 Zone
 Note: Proposed Building Height Overlay would only apply to the B-6 portion of the Eastern Waterfront

 **DRAFT**

PROPOSED B-6 ZONE: HEIGHT OVERLAY ZONE

Eastern Waterfront Building Height Study
 Portland, Maine
 August 2004

NATHAN H. SMITH (MAYOR)
WILLIAM E. CORNELL (C)
MARTIN A. DESAIGNEY (C)
CURENYL A. LIZALLEN (C)
JAMES J. COHEN (C)

JAMES H. CLONTIER (C)
HILL C. DUNN (C)
THOMAS H. MAYOROWSKI (C)
PETER A. QUINN (C)

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 Duranlean	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 Easement to Central Maine Power EE; Portland International Jetport -- Sponsored by Joseph R. 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 Lacuna, 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 R. 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 153 Danforth Street. That bed and breakfast facility is owned by the Corporation. (Gary Wood, Corporation Council), 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 Godham. 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 OF STUDY (MAY 1994)

KEY BUILDING ENVELOPES BY HEIGHT

NO BUILD ABOVE RELATIVE FREE
STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET ON 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 ON 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 130 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.

4. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FREE STREET ELEVATION.

5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

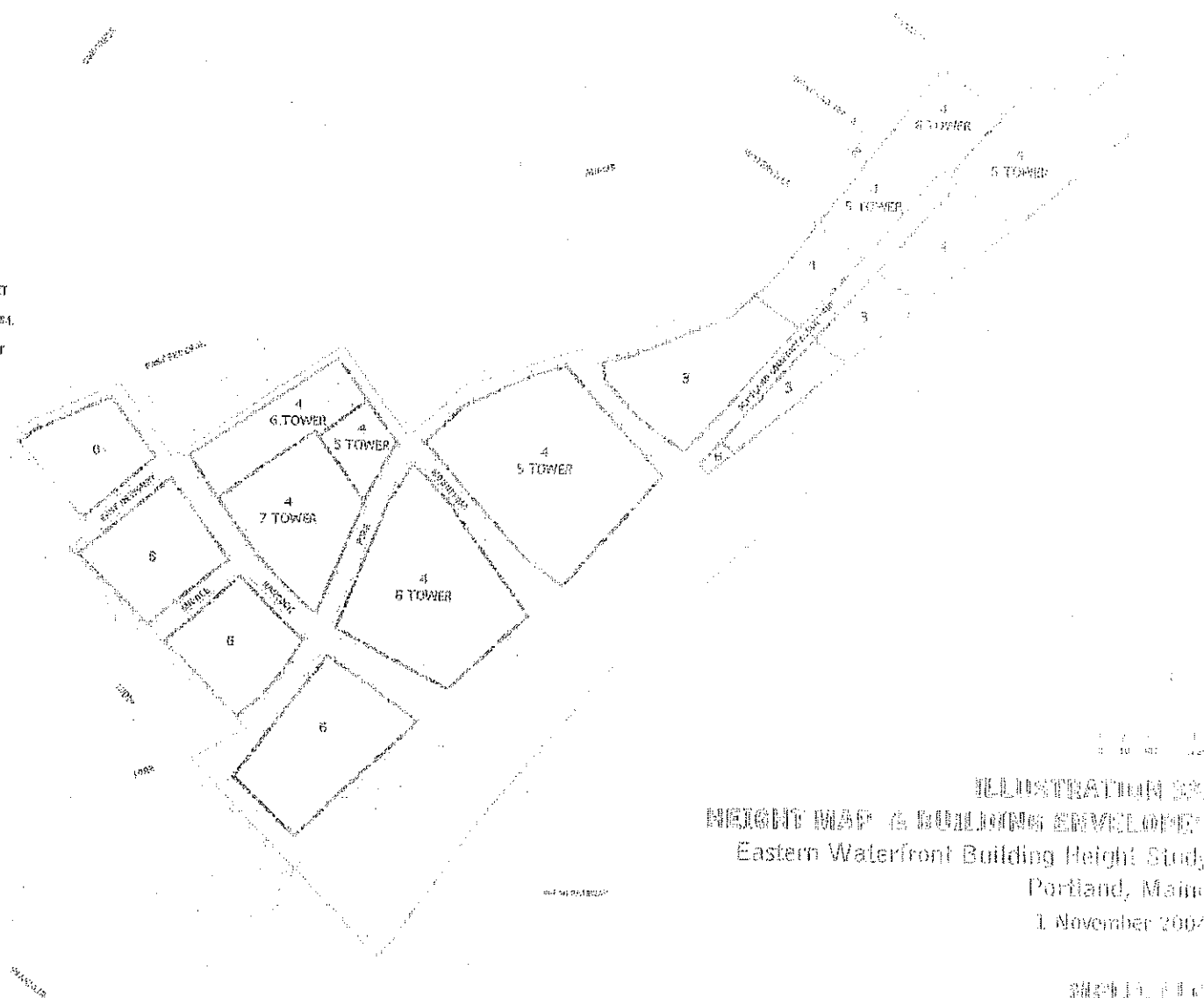


ILLUSTRATION 2:
HEIGHT MAP & BUILDING ENVELOPES
Eastern Waterfront Building Height Study
Portland, Maine
1 November 2004

2004.11.01

- General Notes.

- [illegible]

Note: Proposed Building Height Overlay Zone would only apply to the B-8 portion of the Eastern Waterfront

Proposed B-6:

BUILDING HEIGHT OVERLAY MAP

Eastern Waterfront Building Height Study

Portland, Maine

13 September 2004

Abbreviations: AHA = American Heart Association; BSA = body surface area; CVD = cardiovascular disease; ECG = electrocardiogram; HDL-C = high-density lipoprotein cholesterol; LDL-C = low-density lipoprotein cholesterol; LVEF = left ventricular ejection fraction; MACE = major adverse cardiac events; MI = myocardial infarction; NSTEMI = non-ST-segment elevation myocardial infarction; NYCTG = National Yersinia Typhoid Trial Group; PAF = percutaneous coronary intervention; PRISM-III = Pediatric Research in Intensive Care III; RCT = randomized controlled trial; ST-elevation myocardial infarction; TIA = transient ischemic attack.

Memorandum
Department of Planning and Development
Planning Division



To: Mayor Smith and the Portland City Council

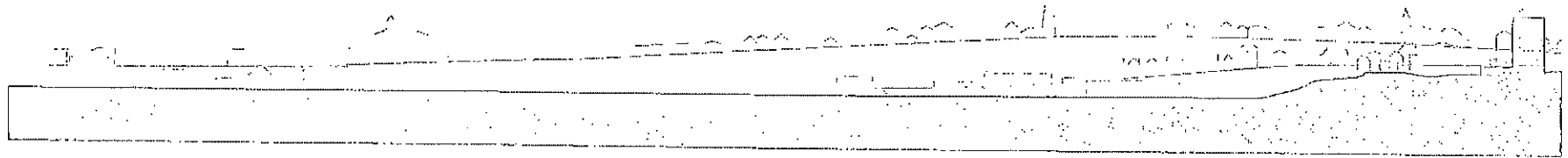
From: Bill Needelman, Senior Planner

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:

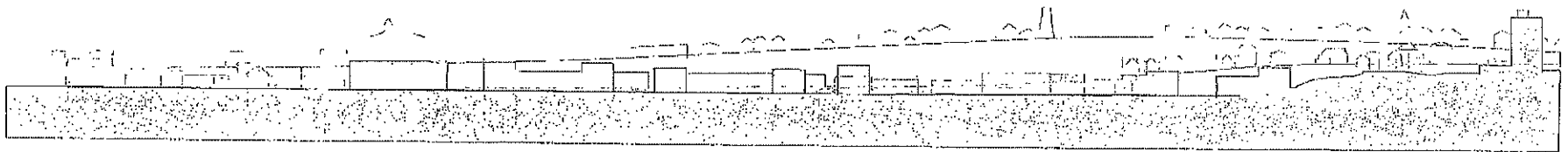
1. East / West Section: This drawing is taken from the Building Height Study and reflects the Planning Board's recommendation.
2. Potential Building Extensions: As suggested at the previous Council meeting, drawing 2 shows a maximum number of building extensions on those block where they are allowed. 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

100' 200' 300' 400' 500' 600' 700' 800' 900' 1000'



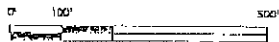
SECTION E PROPOSED - EAST / WEST (with Congress Street and Fore Street Elevations)

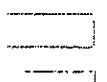
EASTERN WATERFRONT HEIGHT STUDY

Portland, Maine

13 September 2001

MRLO, LLC

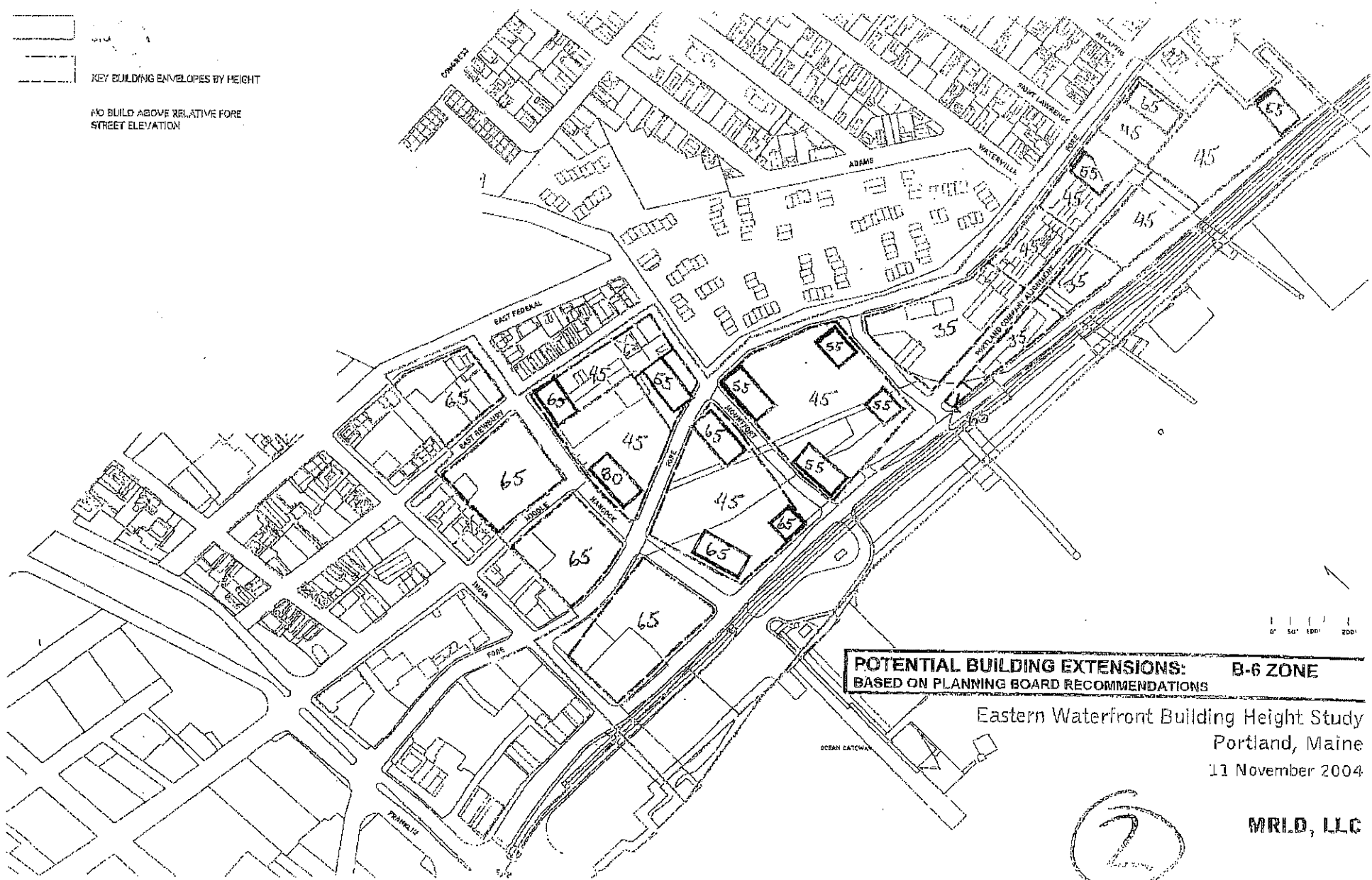




 KEY BUILDING ENVELOPES BY HEIGHT

 NO BUILD ABOVE RELATIVE FORE

 STREET ELEVATION



POTENTIAL BUILDING EXTENSIONS:

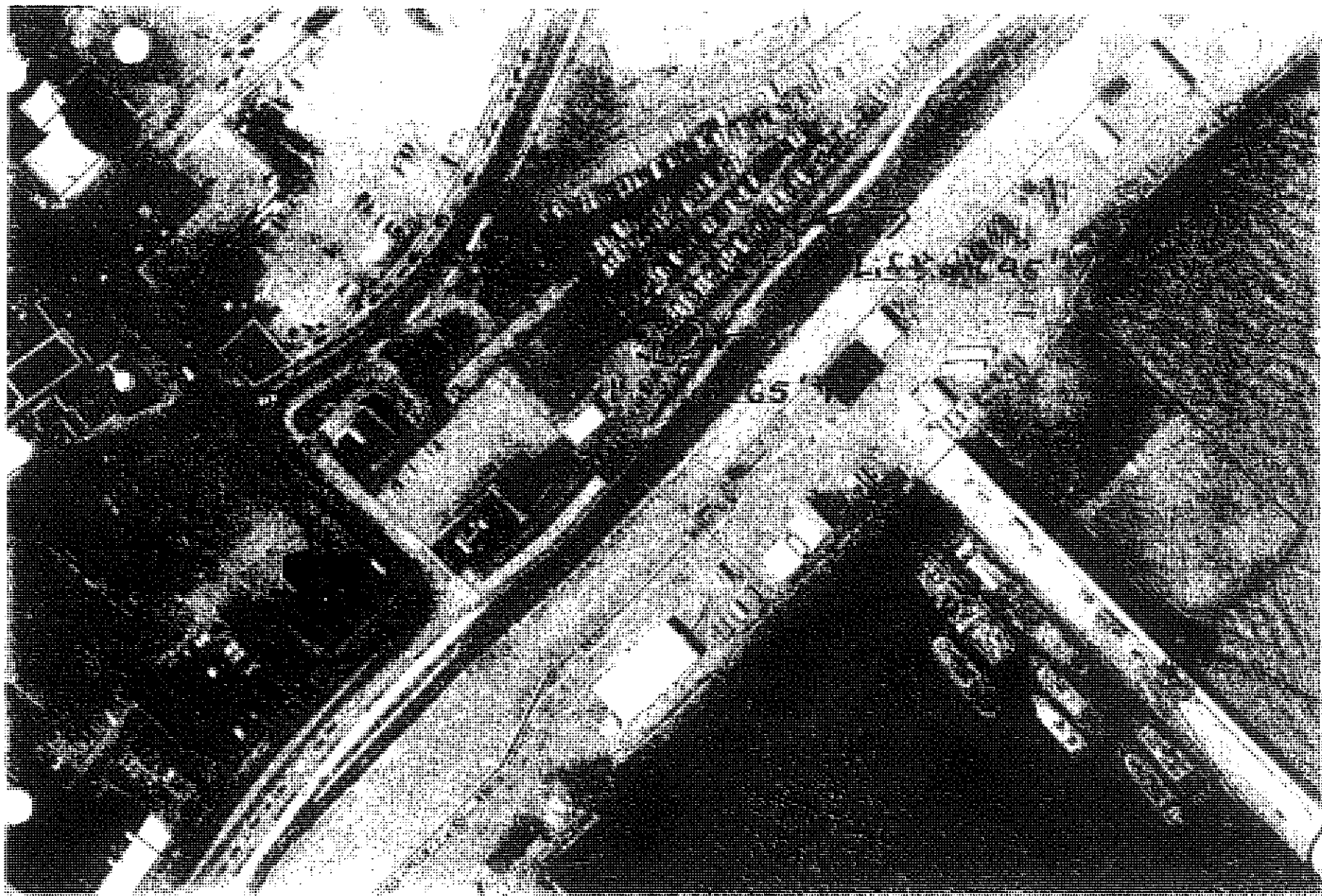
BASED ON PLANNING BOARD RECOMMENDATIONS

B-6 ZONE

Eastern Waterfront Building Height Study
 Portland, Maine
 11 November 2004

2

MRLD, LLC



3

Block Number

-  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.

AMENDED By: Councilor Sor-ham

Proposed B-6:

BUILDING HEIGHT OVERLAY MAP

Eastern Waterfront Building Height Study

Portland, Maine

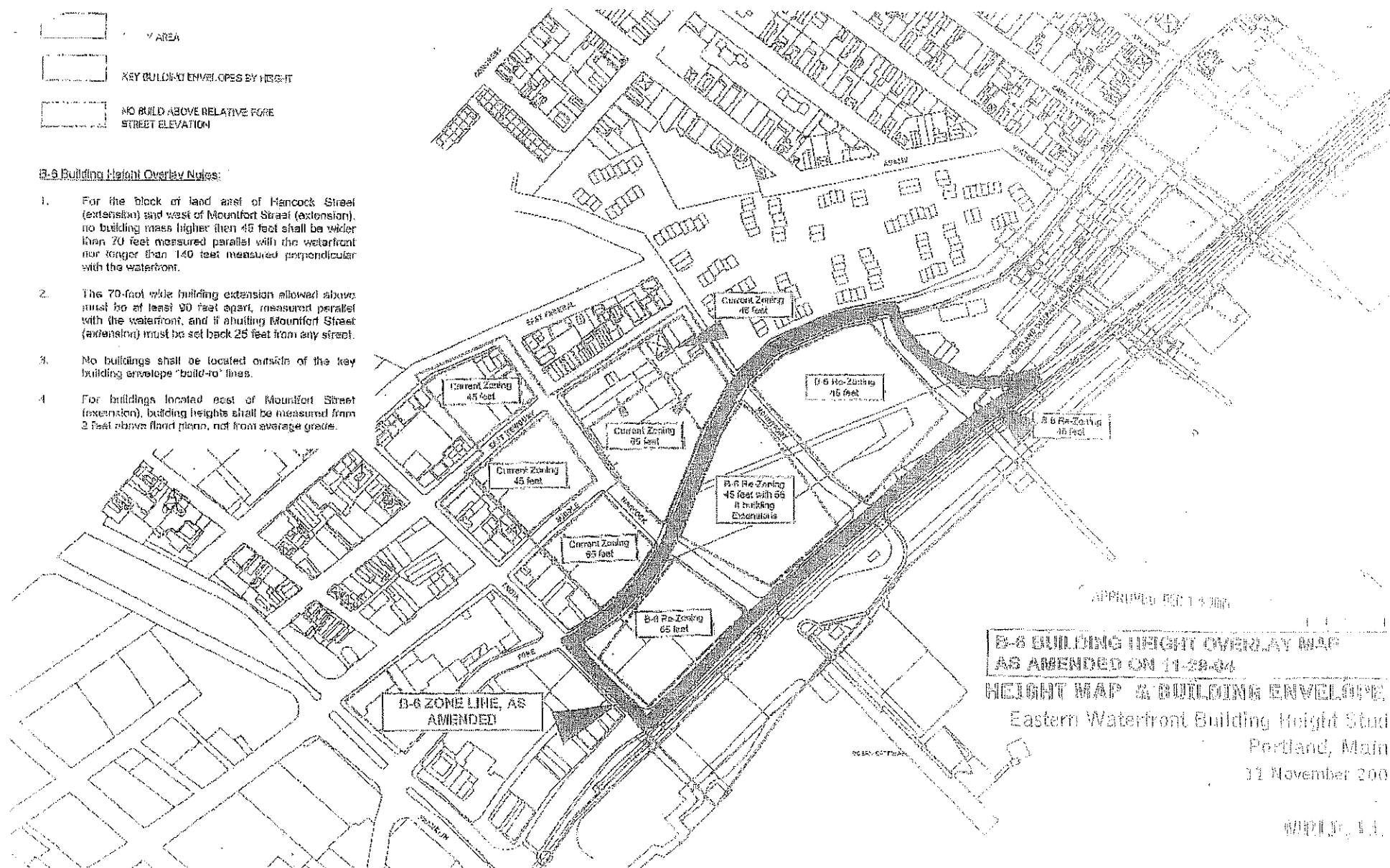
13 September 2004

4

-  V AREA
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

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 3 feet above flood plain, not from average grade.



-  SOLID BLACK: BUILDING ENVELOPE
-  DASHED: BUILDING ENVELOPE

FIG. 33-1: BUILDING ENVELOPE
 SCALE: 1" = 100'

GENERAL NOTES:

1. THIS MAP IS A PRELIMINARY STUDY OF THE BUILDING ENVELOPE
 AND SHOULD NOT BE USED AS A BASIS FOR ANY OTHER
 PLANNING OR DESIGN WORK. THE BUILDING ENVELOPE
 IS BASED ON THE BUILDING ENVELOPE STUDY AND
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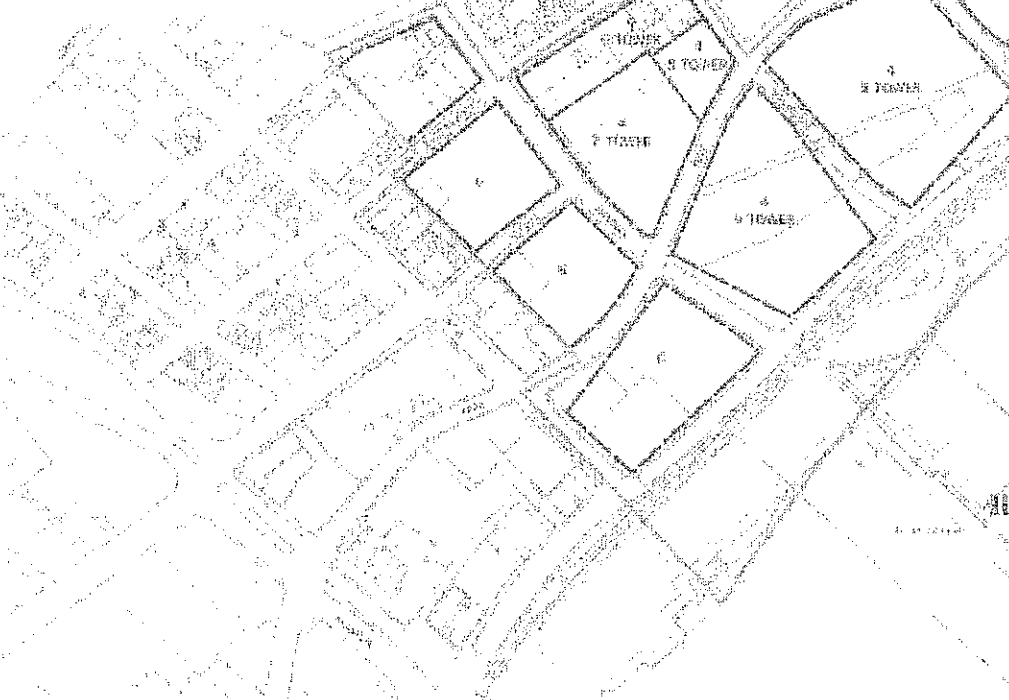


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES

Eastern Waterfront Building Height Study

Portland, Maine

September 2004

WHLB, LLC



B-6 Building Height Overlay Notes:

Appendix 5

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 6, 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 Mountfort Street Extension

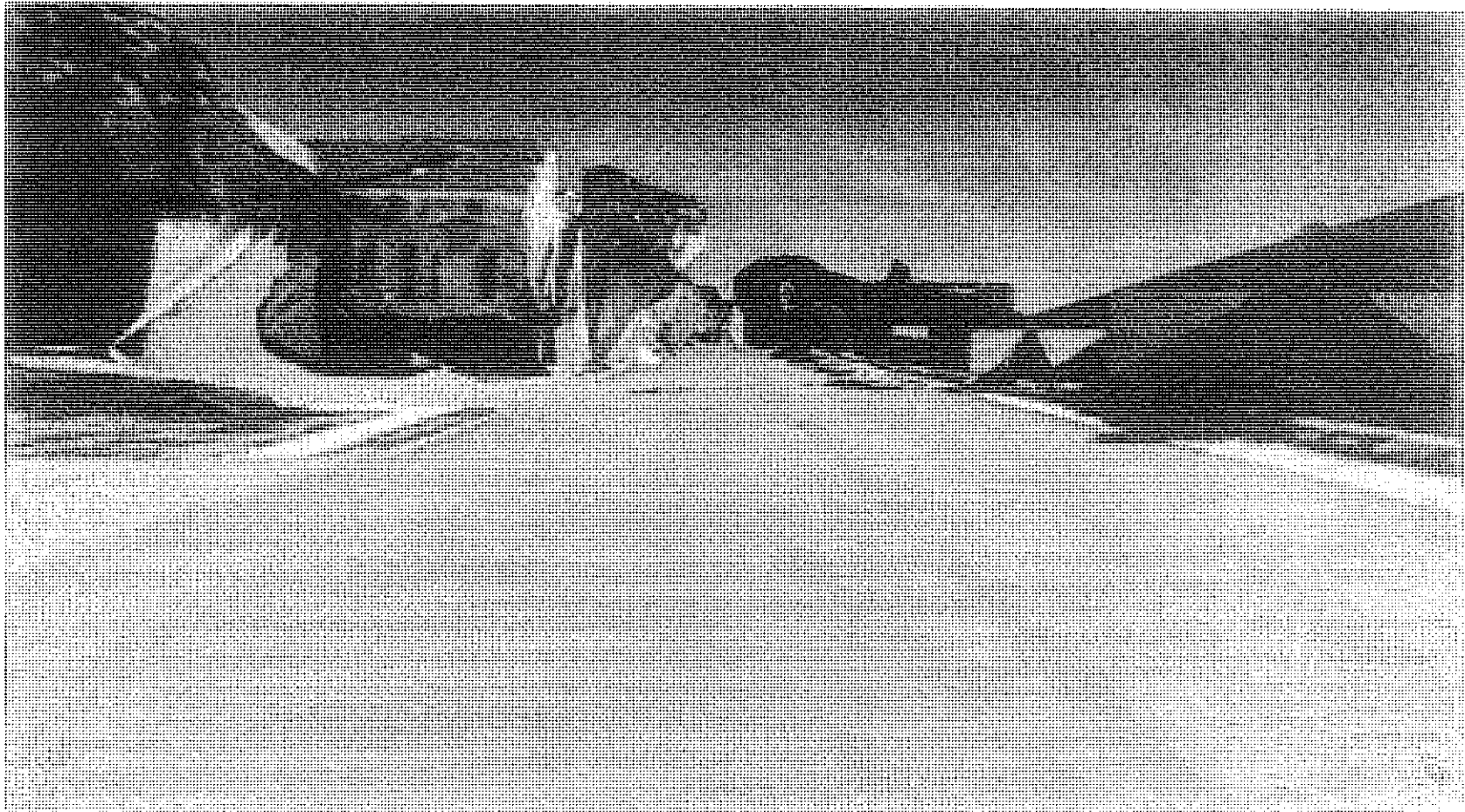
0 100 200 400
Feet

Map produced by the City of Portland's Departments of
Planning & Development and Public Services
May 2005



SOUL OF PORTLAND : 02/24/2015
SOUL OF PORTLAND ORR

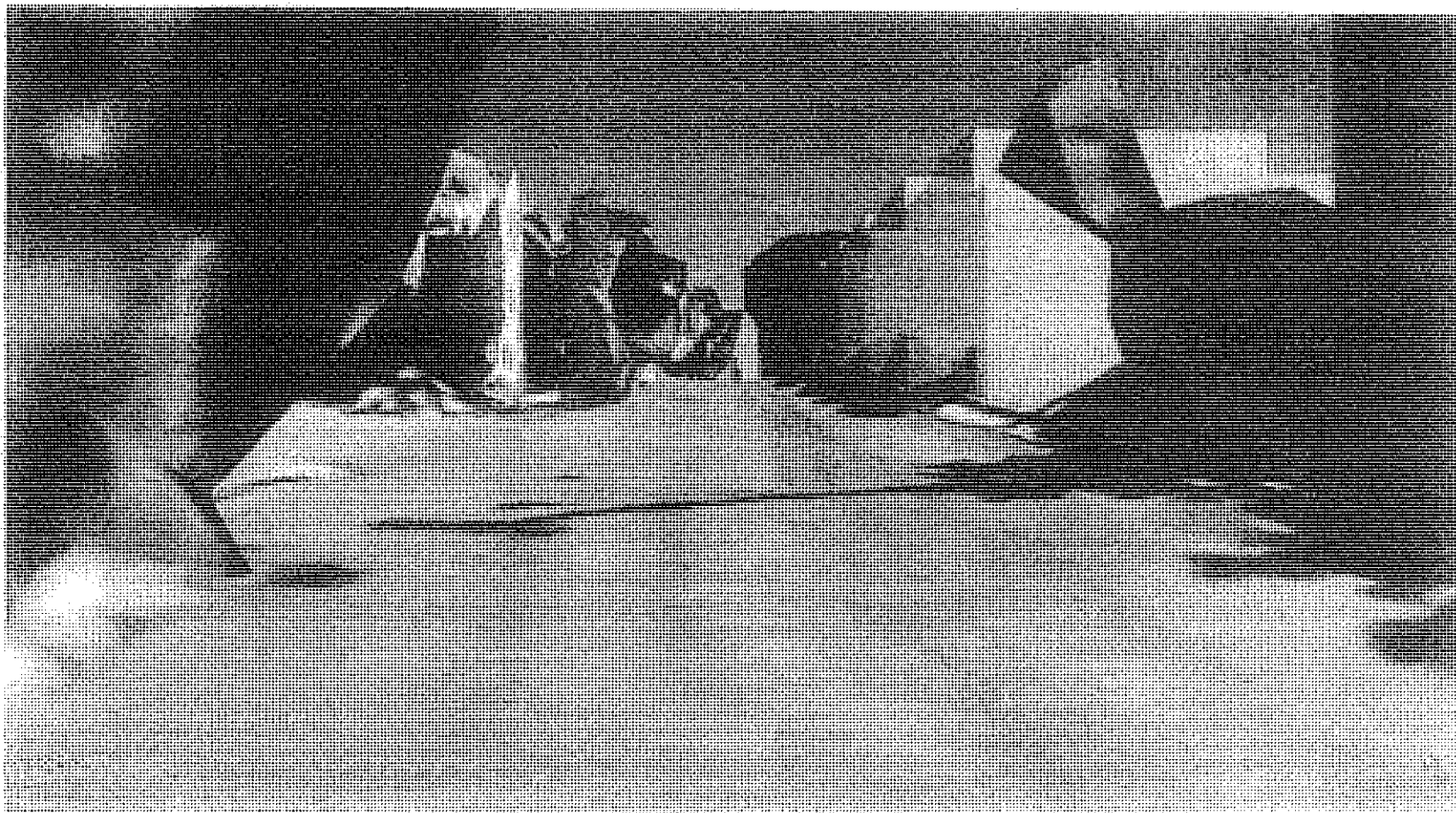
FORE STREET & WATERVILLE STREET
LIMITS OF PROPOSED 66' AS JOINED FROM AVERAGE GRADE (35' ON GRID)
BASED ON ALTA/ACOM LAND TITLE SURVEY DATED MAY 28, 2012



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & WATERVILLE STREET

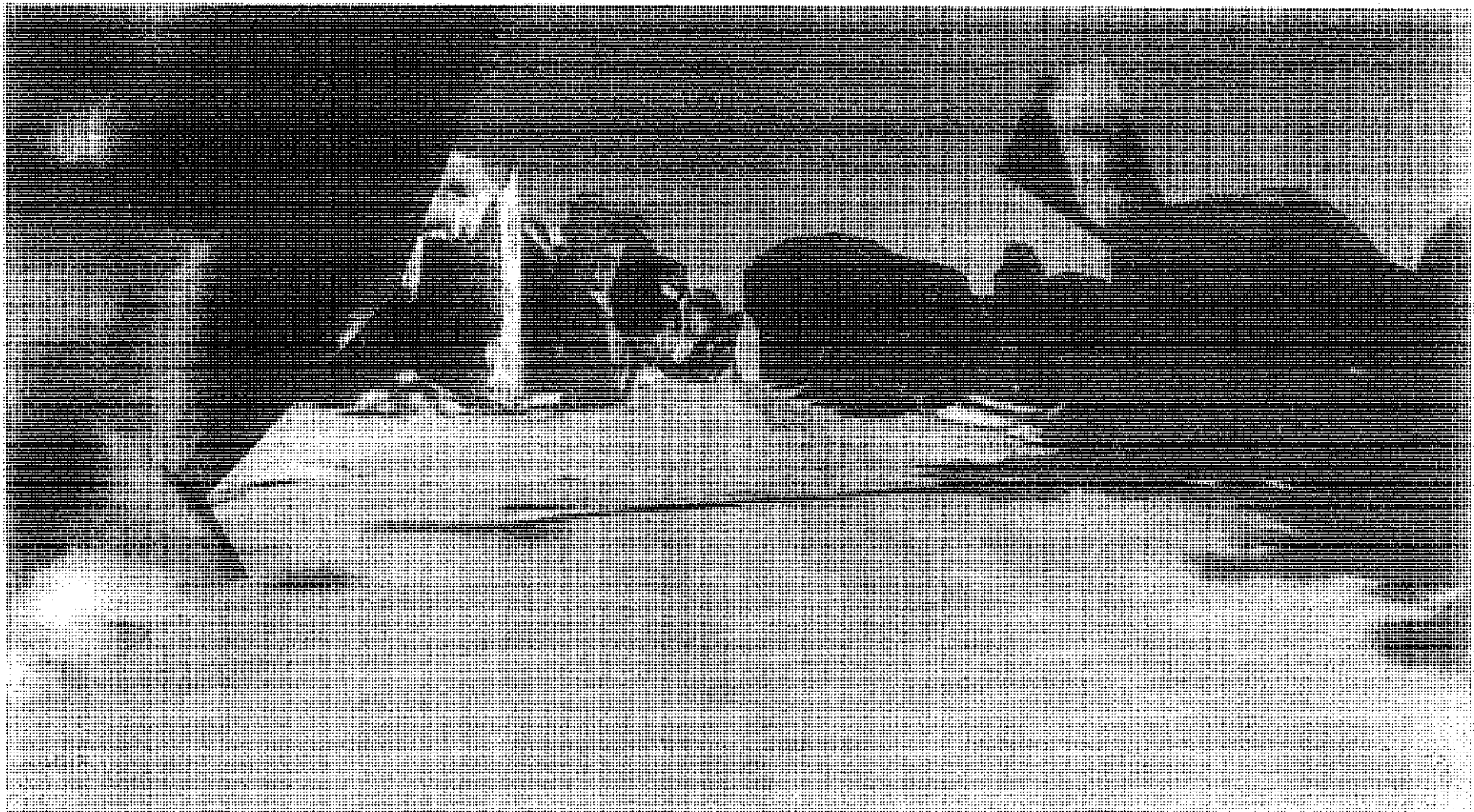
LIMITS OF PROPOSED RE-ZONING FROM FLOOD PLAIN
BASED ON ALTA/ACSM LAND TITLE SURVEY DATED MAY 22, 2014



SOUL OF PORTLAND : 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & ST. LAWRENCE STREET

LIMITS OF PROPOSED B5 REZONING FROM AVERAGE GRADE (20'X15' GRID)
BASED ON ALTRACSM LAND TITLE SURVEY DATED MAY 22, 2013



SOUL OF PORTLAND: 02/24/2015
SOULOFPORTLAND.ORG

FORE STREET & ST. LAWRENCE STREET
LIMITS OF PROPOSED E6 REZONING FROM FLOOD PLAIN
BASED ON ALYMACON L&M TITLE SURVEY DATED MAY 23, 2017

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."

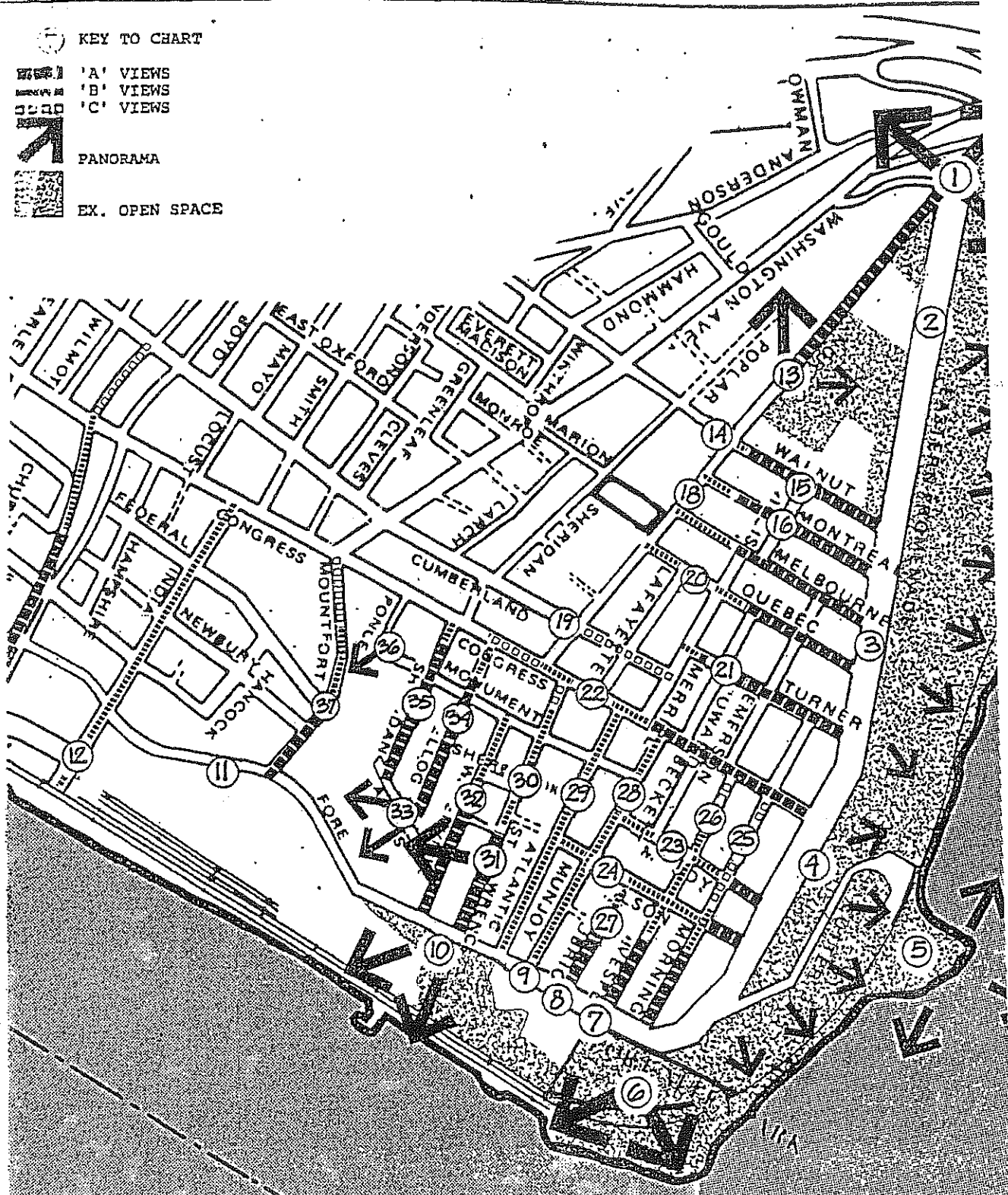
On the attached map "Panorama viewpoints are noted with an arrow, the larger the arrow, the greater the significance of the panorama in terms of angle of view, position of observer, and degree of obstructions." In addition to Ft. Allen Park, the only "major panoramic views" of the harbor are along upper 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.

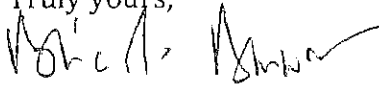
It has been argued that average grade, as opposed to 2' above flood plain, should be used in measuring building heights because of the apparent inclusion, in the Building Height Study package provided to the City Clerk, a "September 2004" draft of Illustration 33 (attached as E-IV). This "September 2004" 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 superceded 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.

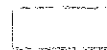
Redevelopment of the Portland Company site is possible with broad neighborhood support. But that support is dependent upon development that will not just benefit the owner, but is guided by those values that reflect the unique, natural attributes of Munjoy Hill and the City of Portland.

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 from 2' above the flood plain elevation for the site based on the National Geodetic Vertical Datum.

Truly yours,

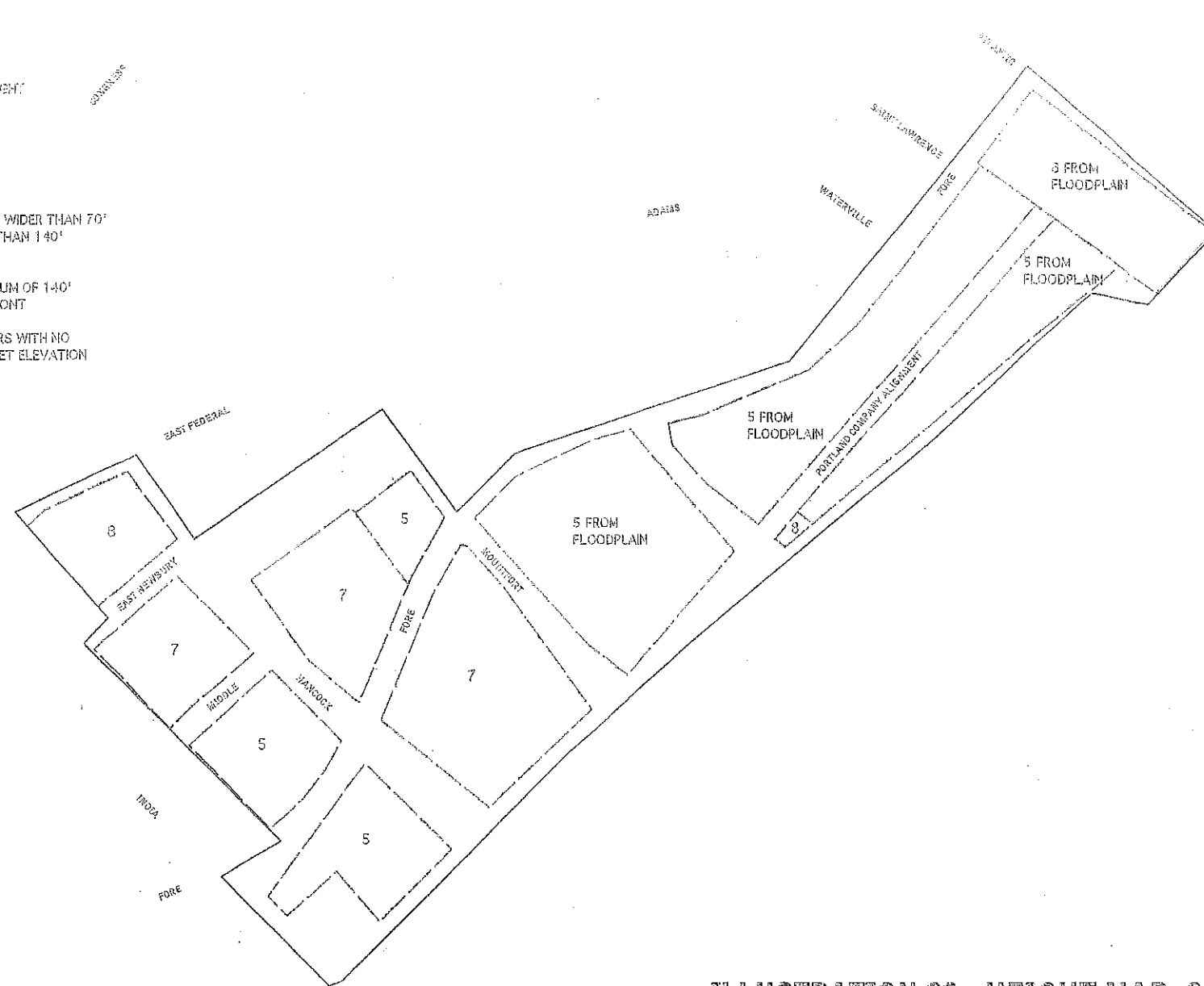
A handwritten signature in black ink, appearing to read "Brian Burwell", written over the typed name.

Brian Burwell
31 Fore Street, Portland

-  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 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

0' 50' 100' 200'

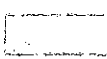
ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES

Eastern Waterfront Building Height Study

Portland, Maine

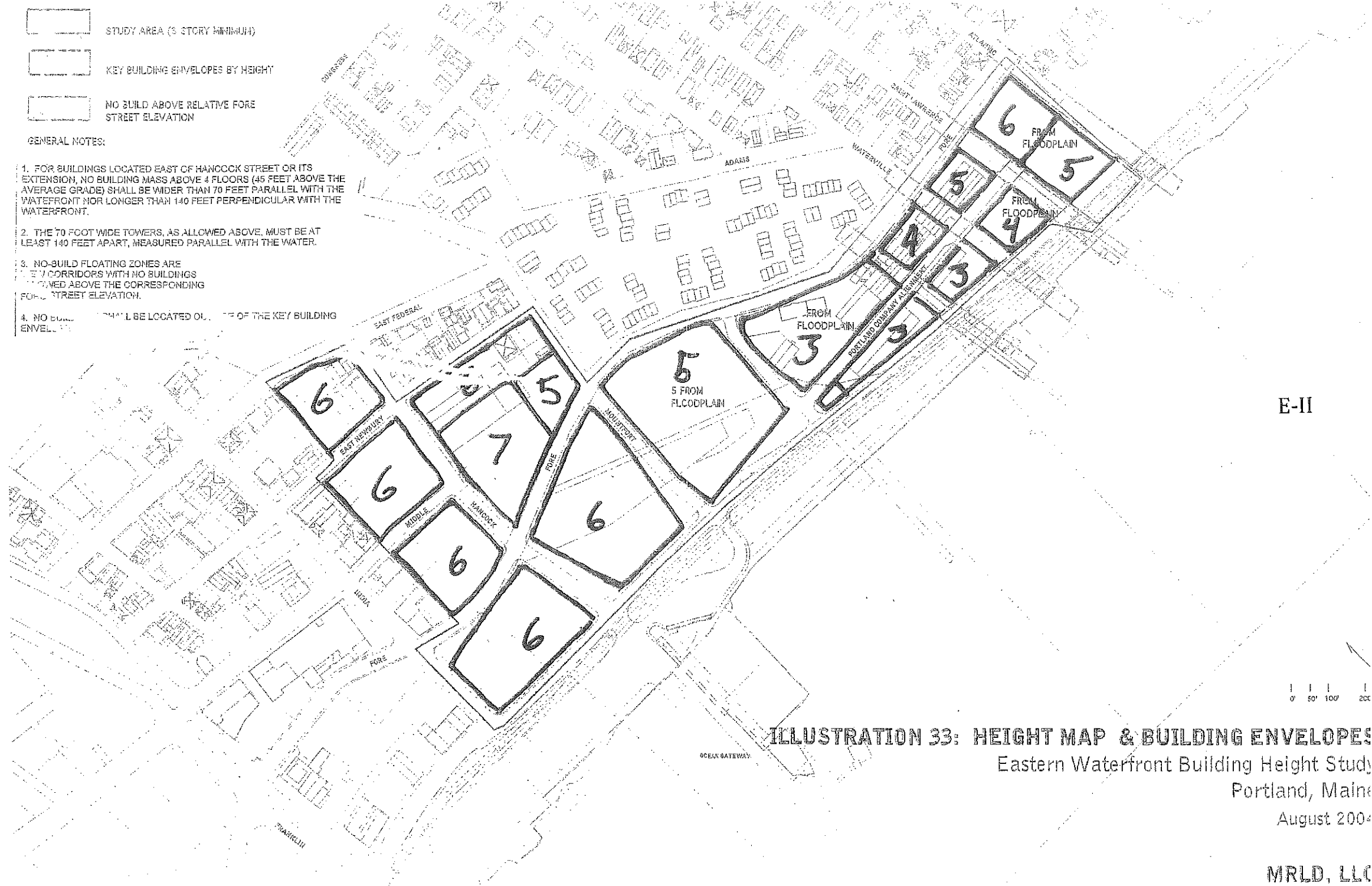
August 2004

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 7' W CORRIDORS WITH NO BUILDINGS ALLOWED ABOVE THE CORRESPONDING FORE STREET ELEVATION.
4. NO BUILDING SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPE.



E-II

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:

- 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.
- 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.
- THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.
- NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.
- NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

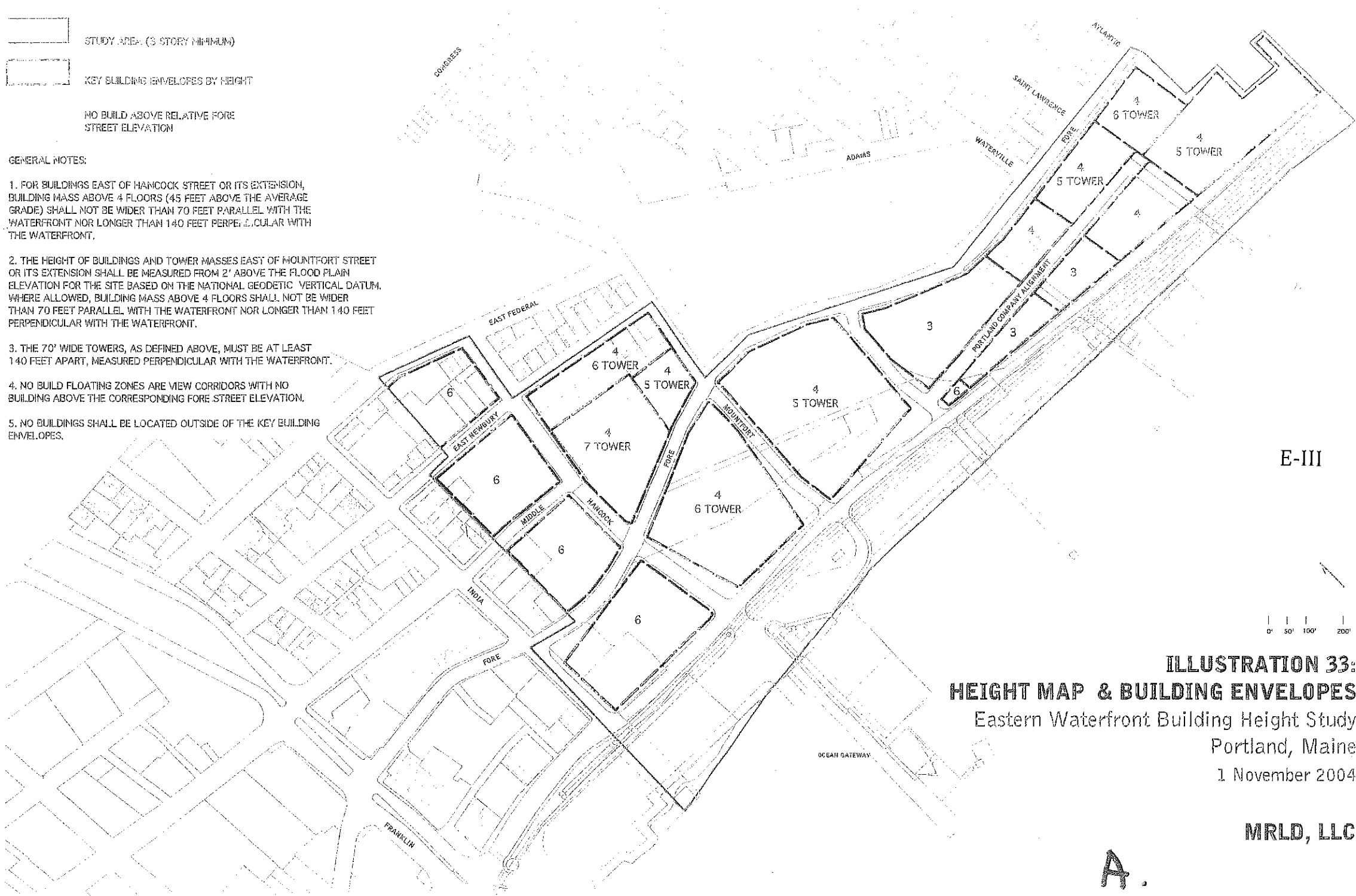


ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

MRLD, LLC

A.

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.

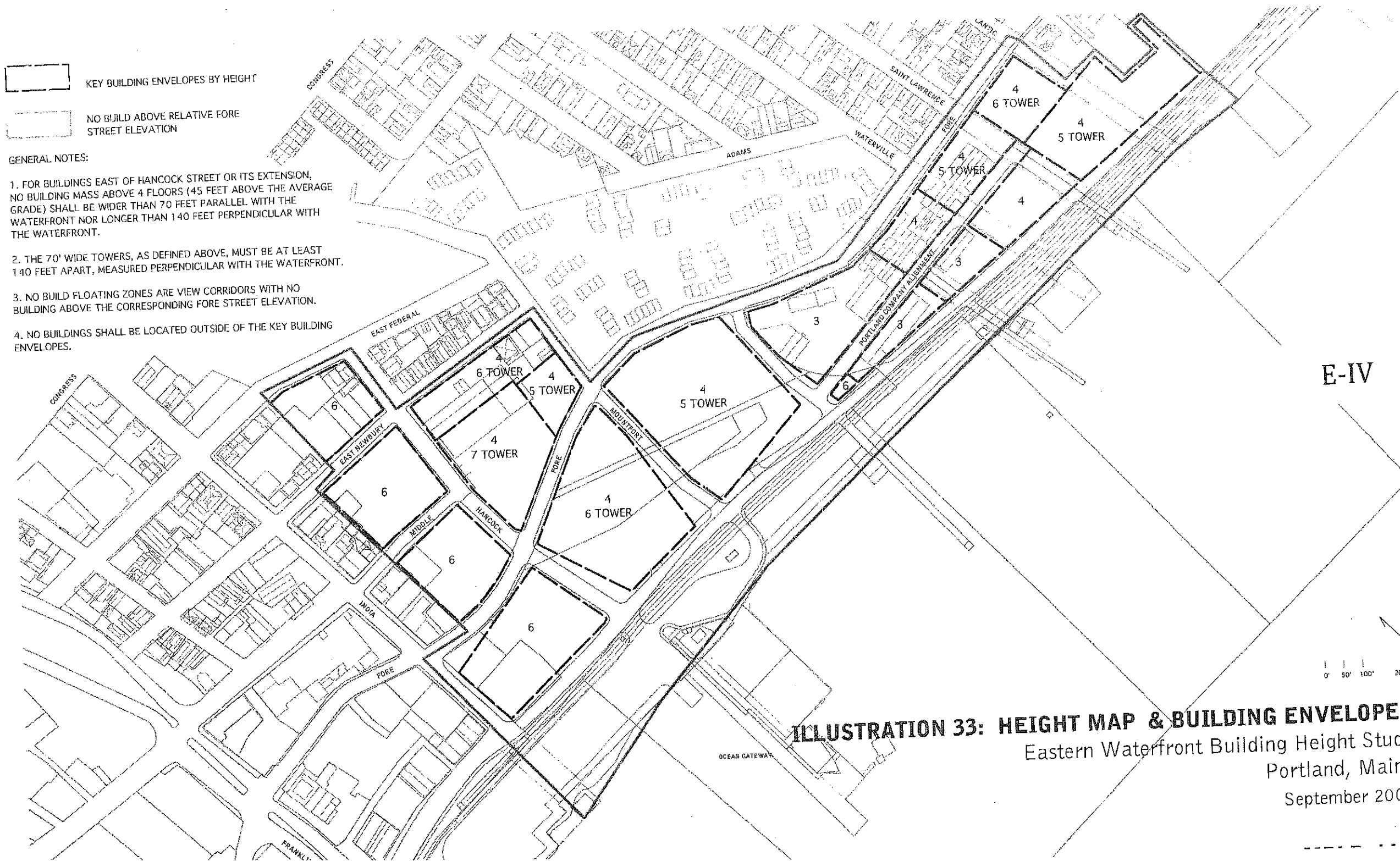


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES

Eastern Waterfront Building Height Study

Portland, Maine

September 200

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

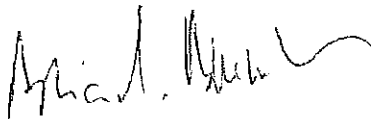
Dear Mayor Brennan:

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 dark ink, appearing to read "Brian R. Burwell", with a stylized flourish at the end.

Brian R. Burwell
31 Fore Street
Portland, Maine

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
cdg@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

(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

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 - For the 58 Fore record - Petition signatures

From: Stacy Mitchell <stacyfewmitchell@gmail.com>
To: Sonia Bean <STB@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>
Date: 4/2/2015 9:42 AM
Subject: For the 58 Fore record - Petition signatures
Attachments: Petition-PortlandCompanyRezoning.pdf; Petition-PortlandCompanyRezoning-Comments.pdf

Dear Sonia and Christine,

Please find attached a petition regarding the proposed rezoning of the Portland Company site, along with a second document with comments petition signers offered on the proposed rezoning.

Would you please include these documents with the materials given to the Council and include them in the public record as well?

Thank you,

Stacy Mitchell

*Found in junk mail
on 4/7 and then
added to packet for
next mtg.*

Petitioning the City Council of Portland, Maine

**Protect the Public Interest in the Redevelopment of the
Portland Company Site**

We, the undersigned Residents of Portland, are not opposed to redevelopment of the Portland Company site, **if the public's interest is protected**. We, therefore, petition the Portland City Council to approve the proposed zone change for the Portland Company site **only** if they:

1. Protect the iconic vista of Portland Harbor by keeping all new development below the plane of Fore Street;
2. Minimize the parking, noise, light, traffic and other impacts of its commercial uses on Munjoy Hill's residential neighborhood;
3. Ensure that the public can walk and drive on the sidewalks and roads of the development, even if they are private; and
4. Safeguard the Eastern Prom trail.

Signatures

Name	Location	Date
Stacy Mitchell	, United States	2015-03-23
Peter Macomber	Portland, ME, United States	2015-03-23
Margaret P. Macomber	Portland, ME, United States	2015-03-23
Jean McManamy	Portland, ME, United States	2015-03-23
Robert Gould	Portland, ME, United States	2015-03-23
bBARBARA vESTAL	Portland, ME, United States	2015-03-23
Lindsey Pabst	Portland, ME, United States	2015-03-23
angela adams	Portland, ME, United States	2015-03-23
David Cray	Portland, ME, United States	2015-03-23
Monet Macomber	Topsham, ME, United States	2015-03-23
Madeline Macomber	Portland, ME, United States	2015-03-23
Wendy Taylor	Portland, ME, United States	2015-03-23
Sherwood Hamill	Portland, ME, United States	2015-03-23
Kelly McCormack	Portland, ME, United States	2015-03-23
LK Weiss	Portland, ME, United States	2015-03-23
Ellen Bailey	Portland, ME, United States	2015-03-23
Emily weston	Portland, ME, United States	2015-03-23
Richard Marino	Portland, ME, United States	2015-03-23
Allison Tietjen	Portland, ME, United States	2015-03-23
Claire noonan	Portland, ME, United States	2015-03-23
Brian Danz	Portland, ME, United States	2015-03-23
Julie Smith	Portland, ME, United States	2015-03-23
kerri cordeiro	Portland, ME, United States	2015-03-23
Holly Gillies	South Portland, ME, United States	2015-03-23
holly boyington	Portland, ME, United States	2015-03-23
Hannah Schroeder	Portland, ME, United States	2015-03-23
Laura Fuller	Falmouth, ME, United States	2015-03-23
Jacqueline Sparling	South Portland, ME, United States	2015-03-23
Claire Schroeder	Portland, ME, United States	2015-03-23
Christian Sparling	South Portland, ME, United States	2015-03-23

Name	Location	Date
Angela Johnson	Portland, ME, United States	2015-03-23
Jill Osgood	Portland, ME, United States	2015-03-23
Abby Huckel	Portland, ME, United States	2015-03-23
Anne Rand	Portland, ME, United States	2015-03-23
Thomas Puckett	Cape Elizabeth, ME, United States	2015-03-23
Karyn Jenkins	Portland, ME, United States	2015-03-23
Christopher Akelrind	Portland, ME, United States	2015-03-23
Madeline Cate	Portland, ME, United States	2015-03-23
Elizabeth Smith	Portland, ME, United States	2015-03-23
deborah brown	Portland, ME, United States	2015-03-23
Edwin Chester	Portland, ME, United States	2015-03-23
Genevieve talbott	Portland, ME, United States	2015-03-23
Jennifer Burgess	Portland, ME, United States	2015-03-23
Isabella Talbott	Portland, ME, United States	2015-03-23
Jaime Skolfield	Brooklyn, NY, United States	2015-03-23
Lydia Savage	Portland, ME, United States	2015-03-23
Sharon Timberlake	Portland, ME, United States	2015-03-23
Sharon Quatrano	Biddeford, ME, United States	2015-03-23
Meredith Ingram	Portland, ME, United States	2015-03-23
Colin Gulley	Portland, ME, United States	2015-03-23
Mary emmons	Portland, ME, United States	2015-03-23
Linda McLendon	Port Charlotte, FL, United States	2015-03-23
Meghan Quinn	Portland, ME, United States	2015-03-23
Mary Kathryn Connolly	Portland, ME, United States	2015-03-23
Cheryl Lockhart	Ocala, FL, United States	2015-03-23
Marianne O'Malley Sampson	Portland, ME, United States	2015-03-23
Julie Bachelder	Portland, ME, United States	2015-03-23
Chaning Capuchino	Portland, ME, United States	2015-03-23
Trisha Earles	Saco, ME, United States	2015-03-23
Concerned Citizen	New City, NY, United States	2015-03-23
Lynn Brown	Portland, ME, United States	2015-03-23
Pamela Hillman	Biddeford, ME, United States	2015-03-23

Name	Location	Date
Wes Doane	Cape Elizabeth, ME, United States	2015-03-23
Debra Stevens	Portland, ME, United States	2015-03-23
Patricia Guimond	York, ME, United States	2015-03-23
Luanne Balzano-Brookes	Portland, ME, United States	2015-03-23
Danielle Shone Buck	Portland, ME, United States	2015-03-23
Aidrian O'Connor	Machias, NY, United States	2015-03-23
Donnamarie Libby	Alfred, ME, United States	2015-03-23
Rameen Armajani	Portland, ME, United States	2015-03-23
Pamela Adams	Portland, ME, United States	2015-03-23
Danielle Corciullo	Portland, ME, United States	2015-03-23
Melissa Tame	Portland, ME, United States	2015-03-23
Brittany Cox	San Antonio, TX, United States	2015-03-23
Jamie Adamo	South Portland, ME, United States	2015-03-23
Makara Meng	South Portland, ME, United States	2015-03-23
Emily Boulay	Topsham, ME, United States	2015-03-23
marjorie brown	portland, ME, United States	2015-03-23
Brian Greene	Portland, ME, United States	2015-03-23
Sarah Gray	Cumberland Foreside, ME, United States	2015-03-23
Cynthia Miles	Portland, ME, United States	2015-03-23
maria lundy	Westbrook, ME, United States	2015-03-23
Michele Johnson	South Portland, ME, United States	2015-03-23
Cathryn Egan-Arnold	Portland, ME, United States	2015-03-23
Frank spring	Windham, ME, United States	2015-03-23
Leslie Abrons	Portland, ME, United States	2015-03-23
Peter Hickey	Tempe, AZ, United States	2015-03-23
Jessica Butts	Portland, ME, United States	2015-03-23
Angeline palestini	Portland, ME, United States	2015-03-24
Don Marietta	Portland, ME, United States	2015-03-24
Rita Sudbay	Portland, ME, United States	2015-03-24
jaime king	Portland, ME, United States	2015-03-24
Rick Dambrie	South Portland, ME, United States	2015-03-24
Dan Black	Portland, ME, United States	2015-03-24

Name	Location	Date
Heather Curtis	Augusta, ME, United States	2015-03-24
Susan fekety	Portland, ME, United States	2015-03-24
Rebecca Leeman	Portland, ME, United States	2015-03-24
William Chester	Washington, DC, United States	2015-03-24
Laura Fralich	Portland, ME, United States	2015-03-24
Diane Mosiello	Newport News, VA, United States	2015-03-24
Theresa Greene	Portland, ME, United States	2015-03-24
Lani Marsden	Washington, DC, United States	2015-03-24
Keri Lord	Portland, ME, United States	2015-03-24
Adriene Coen	San Francisco, CA, United States	2015-03-24
Anita Germani	Portland, ME, United States	2015-03-24
Mary Ellen Deschenes	Portland, ME, United States	2015-03-24
julie lawson	Tampa, FL, United States	2015-03-24
Katherine St Clair	Portland, ME, United States	2015-03-24
Michael McInnis	Portland, ME, United States	2015-03-24
Sandra Lovell	Portland, ME, United States	2015-03-24
Katherine Ford	Portland, ME, United States	2015-03-24
Liz Woodbury	Portland, ME, United States	2015-03-24
Michael Hight	Portland, ME, United States	2015-03-24
JENNIFER VETTERNECK	LAC DU FLAMBEAU, WI, United States	2015-03-24
Mary O'Brien	Reston, VA, United States	2015-03-24
Janice Banks	Center Barnstead, NH, United States	2015-03-24
Marc Silverstein	Nanuet, NY, United States	2015-03-24
SALVATORE CENTO	brooklyn, NY, United States	2015-03-24
Stephen phillips	Portland, ME, United States	2015-03-24
Rosaura Ovalles	Lawrence, MA, United States	2015-03-24
Monica Dominak	Portland, ME, United States	2015-03-24
Peter Sullivan	Portland, ME, United States	2015-03-24
Alice Murphy	Cincinnati, OH, United States	2015-03-24
Michael Gutierrez	Lake Elsinore, CA, United States	2015-03-24
Betty Smisek	Bloomington, MN, United States	2015-03-24
Tawfik Barhoum	Tampa, FL, United States	2015-03-24

Name	Location	Date
Dana Hall	Lebanon, MO, United States	2015-03-24
Tim Hathaway	Kingston, NY, United States	2015-03-24
jeri joy	Provincetown, MA, United States	2015-03-24
Billy Cohen	Hollywood, FL, United States	2015-03-24
Nathanial Corona	Las Vegas, NV, United States	2015-03-24
kathryn smith	Hermon, NY, United States	2015-03-24
Lee McFarlane	Preston, AA, United States	2015-03-24
Roy St.Clair	Portland, ME, United States	2015-03-24
Mary Jackson	Lake Ridge, VA, United States	2015-03-24
Binh Nguyen	Palm Bay, FL, United States	2015-03-24
Sally Sherman	State College, PA, United States	2015-03-24
Catherine Krycuk	White Bear Township, MN, United States	2015-03-24
Rebecca Hosley	Portland, ME, United States	2015-03-24
Bethany Glatz	Portland, ME, United States	2015-03-24
eva komendo	Wyandotte, MI, United States	2015-03-24
Nicole Holmes	Wells, ME, United States	2015-03-24
Sharon Dumaoal	Aurora, CO, United States	2015-03-24
Cynthia Blais	Fresno, CA, United States	2015-03-24
Sarah Dyson	Waco, TX, United States	2015-03-24
Heather Irish	Windham, ME, United States	2015-03-24
Mariah Skerrett	Aurora, CO, United States	2015-03-24
Kathleen Grinvalsky	Portland, ME, United States	2015-03-24
scot fleming	lakewood, OH, United States	2015-03-24
Barbara Wilhite	Bremerton, WA, United States	2015-03-24
Jonathan moore	Portland, ME, United States	2015-03-24
Nan Brett	Portland, ME, United States	2015-03-24
Jessica Vallette	Portland, ME, United States	2015-03-24
Julia Kirby	Portland, ME, United States	2015-03-24
Doris Lehr	Bayside Hills, NY, United States	2015-03-24
p kana	toronto, NY, United States	2015-03-24
Michael Batchelder	Portland, ME, United States	2015-03-24
Karen Lenahan	Sag Harbor, NY, United States	2015-03-24

Name	Location	Date
James Walker	Hudson, FL, United States	2015-03-24
tuan tran	Everett, MA, United States	2015-03-24
Judith Satchell	San Miguel, CA, United States	2015-03-24
maria laureano	Indiantown, FL, United States	2015-03-24
Elise Pelletier	Portland, ME, United States	2015-03-24
Irene Garcia	norwalk, CA, United States	2015-03-24
meredy hamilton	Portland, ME, United States	2015-03-24
Anna Hewitt	South Portland, ME, United States	2015-03-24
Mary Silveira	Hernando, MS, United States	2015-03-24
alexandra arruda	fall river, MA, United States	2015-03-24
Timz Wolf	Brewer, ME, United States	2015-03-24
Celine Blando	Brookfield, IL, United States	2015-03-24
John Rogers	Waterville, ME, United States	2015-03-24
Alexandra Kantro	Bridgton, ME, United States	2015-03-24
Chien Le	Tacoma, WA, United States	2015-03-24
Sheila Coughlin	Windham, ME, United States	2015-03-24
Laura DeAlmeida	Ramer, TN, United States	2015-03-24
Mike Cavanaugh	Portland, ME, United States	2015-03-24
Jerry phair	Portland, ME, United States	2015-03-24
Maggy Wolf	Portland, ME, United States	2015-03-24
Larry Buchholz	Portland, ME, United States	2015-03-24
james griffin	Wells, ME, United States	2015-03-24
Grayson Lookner	Portland, ME, United States	2015-03-24
Corey Bryant	Portland, ME, United States	2015-03-24
william libby	westbrook, ME, United States	2015-03-24
Elizabeth elliman	Portland, ME, United States	2015-03-24
Dan Rich	Portland, ME, United States	2015-03-24
Kristen Lape	Portland, ME, United States	2015-03-24
Walter Hatch	Portland, ME, United States	2015-03-24
Julie Vos	Portland, ME, United States	2015-03-24
Denise Preisser	Wells, ME, United States	2015-03-24
Katharine Dowling	Portland, ME, United States	2015-03-24

Name	Location	Date
Frank Fotusky	Portland, ME, United States	2015-03-24
Rob Lindsay	Portland, ME, United States	2015-03-25
Michael Chason	Portland, ME, United States	2015-03-25
Heather Abt	Portland, ME, United States	2015-03-25
Jennifer Klumas	Portland, ME, United States	2015-03-25
Anna Sommo	Portland, ME, United States	2015-03-25
Brenda Downs	Portland, ME, United States	2015-03-25
Suzanne Gagnon	Portland, ME, United States	2015-03-25
Karen Winslow	Portland, ME, United States	2015-03-25
Elli Carter	Westbrook, ME, United States	2015-03-25
Ananda Kantner	Portland, ME, United States	2015-03-25
Franklin Sames	South Portland, ME, United States	2015-03-25
Julie Martin	Frederic, WI, United States	2015-03-25
Raphael John Wuesthoff	Portland, ME, United States	2015-03-25
Thea Sames	South Portland, ME, United States	2015-03-25
John Mason	Portland, ME, United States	2015-03-25
Patty Boone	Portland, ME, United States	2015-03-25
Tom Elliman	Portland, ME, United States	2015-03-25
Jeffrey Baez	Albany, NY, United States	2015-03-25
Mary Westort Casale	Portland, ME, United States	2015-03-25
Cheryl P Grobel	Hampton, VA, United States	2015-03-25
Elsie Eastman	Kennebunk, ME, United States	2015-03-25
Kristen dowler	Portland, ME, United States	2015-03-25
Reb Brann	Portland, ME, United States	2015-03-25
Elizabeth Sellner	PORTLAND, ME, United States	2015-03-25
Jan A. Pedersen	Portland, ME, United States	2015-03-25
Barbara Wolkingner	Portland, ME, United States	2015-03-25
Donald Klawinski	Portland, ME, United States	2015-03-25
Christina Aceto	Portland, ME, United States	2015-03-25
Diane Schinella	South Portland, ME, United States	2015-03-25
Ken woods	Portland, ME, United States	2015-03-25
Emilia Panish-Hoffmann	Naples, ME, United States	2015-03-25

Name	Location	Date
trevor Barry	South Portland, ME, United States	2015-03-25
erich pobatschnig	Portland, ME, United States	2015-03-25
Bethany Round	South Portland, ME, United States	2015-03-25
a Tavano	South Portland, ME, United States	2015-03-25
Elizabeth McDonald	Portland, ME, United States	2015-03-25
Maureen Curran	South Portland, ME, United States	2015-03-25
mary connolly	portland, ME, United States	2015-03-25
Megan Hevenor	Portland, ME, United States	2015-03-25
Daniella Toulouse	Portland, ME, United States	2015-03-25
Jenna Galli	Portland, ME, United States	2015-03-25
Richard Heffern	Portland, ME, United States	2015-03-25
Laurie Hacklander	Portland, ME, United States	2015-03-25
Noah Defilippis	Portland, ME, United States	2015-03-25
MICHAEL COPLON	Portland, ME, United States	2015-03-25
Bob Smyth	Cape Elizabeth, ME, United States	2015-03-25
Galen Richmond	Portland, ME, United States	2015-03-25
Zachary Enright	Portland, ME, United States	2015-03-25
Martin Steingesser	Portland, ME, United States	2015-03-25
Molly Steele	Freeport, ME, United States	2015-03-25
Colin Sullivan-Stevens	Portland, ME, United States	2015-03-25
jacqueline curley	Falmouth, ME, United States	2015-03-25
Luke Pola	Portland, ME, United States	2015-03-25
Mary-Erin Casale	Falmouth, ME, United States	2015-03-25
Hollye Seddon	Cumberland, ME, United States	2015-03-25
Laurie R Mooney	Portland, ME, United States	2015-03-25
Kelly Bourdeau	Portland, ME, United States	2015-03-25
Angela giordano	Portland, ME, United States	2015-03-25
Brian Kowtko	Portland, ME, United States	2015-03-25
Reuben little	Portland, ME, United States	2015-03-25
Matthew Chamberlain	Portland, ME, United States	2015-03-25
katie capron	Portland, ME, United States	2015-03-25
Savanna Pettengill	Portland, ME, United States	2015-03-25

Name	Location	Date
Jonathan Morse	Portland, ME, United States	2015-03-25
Robert Barnes	Portland, ME, United States	2015-03-25
Heather Bruce	Portland, ME, United States	2015-03-25
Jennifer Edwards	Portland, ME, United States	2015-03-25
Kevin Leavitt	Portland, ME, United States	2015-03-25
Sarah Longley	Portland, ME, United States	2015-03-25
Sarah Wason	Portland, ME, United States	2015-03-25
Benjamin St.Clair	Portland, ME, United States	2015-03-25
Phillip Denoncourt	westbrook, ME, United States	2015-03-25
Margaret Lyons	Portland, ME, United States	2015-03-25
Viki Brothers	Portland, ME, United States	2015-03-25
Peter McLaughlin	Portland, ME, United States	2015-03-25
Ellis Ducharme	Peaks Island, ME, United States	2015-03-25
Jay Davis	Portland, ME, United States	2015-03-25
Ruth Ieddy	Portland, ME, United States	2015-03-25
Elise Becksvoort	Portland, ME, United States	2015-03-25
Richard Dalton	Portland, ME, United States	2015-03-25
Karen Cabot	South Portland, ME, United States	2015-03-25
stephen tesh	Portland, ME, United States	2015-03-25
Stephanie Dambrie	Portland, ME, United States	2015-03-25
John Knight	Portland, ME, United States	2015-03-25
Bretna Parker	Portland, ME, United States	2015-03-25
Jennifer fox	Portland, ME, United States	2015-03-25
Kim Lee	Portland, ME, United States	2015-03-25
John McCormack	Portland, ME, United States	2015-03-25
Mary Veroneau	Portland, ME, United States	2015-03-25
George Price	Portland, ME, United States	2015-03-25
Judith Tierney	Portland, ME, United States	2015-03-25
Carol Ross	Portland, ME, United States	2015-03-25
Emma Harper	Cumberland Center, ME, United States	2015-03-25
Kelly McCormack	Portland, ME, United States	2015-03-25
Marni Maynard	Portland, ME, United States	2015-03-25

Name	Location	Date
Eva Geiger	Portland, ME, United States	2015-03-25
Adam Jackson	Portland, ME, United States	2015-03-25
Dominic Lavoie	Portland, ME, United States	2015-03-25
Gail Kuhlthau	Portland, ME, United States	2015-03-25
Erin bartoletti	Portland, ME, United States	2015-03-25
Lissa Hunter	Portland, ME, United States	2015-03-25
Robert Chaisson	Portland, ME, United States	2015-03-25
Lindsey Ryer	Portland, ME, United States	2015-03-25
Claire Turlo	Arundel, ME, United States	2015-03-25
Andrew Ryer	Portland, ME, United States	2015-03-25
Jacob Halpert	Portland, ME, United States	2015-03-25
Elizabeth Weber	Portland, ME, United States	2015-03-25
Becki Thomas	Falmouth, ME, United States	2015-03-25
Robin bishop	Portland, ME, United States	2015-03-25
Carol Oehlschlager	North Waterboro, ME, United States	2015-03-25
Joe Markley	Portland, ME, United States	2015-03-25
Clare Ruthenburg	Portland, ME, United States	2015-03-25
Ilene Klein	Baltimore, MD, United States	2015-03-25
Larry Adrian	Portland, ME, United States	2015-03-25
DeEdra Jones	gary, IN, United States	2015-03-25
Kathleen Lally	Portland, ME, United States	2015-03-26
Sally Williams	Hiram, ME, United States	2015-03-26
Margaret Thornton	Raymond, ME, United States	2015-03-26
sue cabot	Portland, ME, United States	2015-03-26
Nate Johnson	Portland, ME, United States	2015-03-26
kathy wagener	Portland, ME, United States	2015-03-26
Nick Ramharter	Portland, ME, United States	2015-03-26
Lindsay Rowe	Portland, ME, United States	2015-03-26
Lilly van der steenhoven	Portland, ME, United States	2015-03-26
Kevin Ready	Portland, ME, United States	2015-03-26
Erin Smith	South Portland, ME, United States	2015-03-26
Christoph gelfand	Portland, ME, United States	2015-03-26

Name	Location	Date
Ivory Murphy-Rieger	Portland, ME, United States	2015-03-26
Krist in Johnson	Augusta, ME, United States	2015-03-26
Delaine Brown	Portland, ME, United States	2015-03-26
Kathleen Riley	Portland, ME, United States	2015-03-26
keagan hammond	Portland, ME, United States	2015-03-26
Emma Holder	Portland, ME, United States	2015-03-26
Kelsey Munroe	Portland, ME, United States	2015-03-26
Christopher Dow	Portland, ME, United States	2015-03-26
Wendy Benson Sargent	Gorham, ME, United States	2015-03-26
Ann Kearsley	Portland, ME, United States	2015-03-26
Diane Toepfer	Portland, ME, United States	2015-03-26
Chris Lord	akugniak, AK, United States	2015-03-26
STEFAN SMITH	praha, Czech Republic	2015-03-26
Ryan Taylor	Winchester, NH, United States	2015-03-26
Jonathan Radtke	Portland, ME, United States	2015-03-26
Linda Murnik	Portland, ME, United States	2015-03-26
Deborah McCoy	Portland, ME, United States	2015-03-26
Tim Tierney	Portland, ME, United States	2015-03-26
christopher paquette	Hollis, ME, United States	2015-03-26
Monique Hamann	Portland, ME, United States	2015-03-26
Josh edlund	South Portland, ME, United States	2015-03-26
Paula Foley stelmack	Portland, ME, United States	2015-03-26
Christopher Hamlin	Portland, ME, United States	2015-03-26
Kathleen O'Malley	Portland, ME, United States	2015-03-26
Carly Rodgers	Portland, ME, United States	2015-03-26
Mark Mancini	East Waterboro, ME, United States	2015-03-26
Susan Tkacik	Saco, ME, United States	2015-03-26
jennifer kastelic	Sedgwick, ME, United States	2015-03-26
Liz Trice	Portland, ME, United States	2015-03-26
Julie Ellis	Bowling Green, KY, United States	2015-03-26
Adam Frederick	Portland, ME, United States	2015-03-26
laura hnатов	Brooktondale, NY, United States	2015-03-26

Name	Location	Date
Dennis Sheehy	Portland, ME, United States	2015-03-26
Kristy Esposito	Portland, ME, United States	2015-03-26
Janine Blatt	Peaks Island, ME, United States	2015-03-26
Rebecca Stephans	Portland, ME, United States	2015-03-26
Shelagh Leahy	Portland, ME, United States	2015-03-26
Katherine Albee	Portland, ME, United States	2015-03-26
Tess Van Horn	Portland, ME, United States	2015-03-26
Michala Buntin	Portland, ME, United States	2015-03-26
Kate Skinner	Portland, ME, United States	2015-03-26
Emily Drummond	Portland, ME, United States	2015-03-26
Sheila Brennan Nee	Falmouth, ME, United States	2015-03-26
Jennifer Corey	Portland, ME, United States	2015-03-26
Nate deyesso	Scarborough, ME, United States	2015-03-26
Deb Panish	Freeport, ME, United States	2015-03-26
Leah MacNichol	Portland, ME, United States	2015-03-26
Danielle LeBlanc	Portland, ME, United States	2015-03-26
Hannah Whitney	Lewiston, ME, United States	2015-03-26
Isabella Rieger	Portland, ME, United States	2015-03-26
james cooper	Portland, ME, United States	2015-03-26
Amanda Reynolds-Gregg	Portland, ME, United States	2015-03-26
Katy Casale-brewer	Portland, ME, United States	2015-03-26
Joyl egan	portland, ME, United States	2015-03-26
Joanne Sterling	Cambridge, MA, United States	2015-03-26
Timmi Sellers	Peaks Island, ME, United States	2015-03-26
Carol Fexa	Peaks Island, ME, United States	2015-03-26
Jonathan Reece	Portland, ME, United States	2015-03-26
Tamsen Towle	Peaks Island, ME, United States	2015-03-26
Jeff Brewer	Portland, ME, United States	2015-03-26
Jacqueline Moss	Cumberland, ME, United States	2015-03-26
Charlie Frair	Portland, ME, United States	2015-03-26
Angela Morgan	Portland, ME, United States	2015-03-26
Karen Young	South Portland, ME, United States	2015-03-26

Name	Location	Date
Betsy Carson	South portland, ME, United States	2015-03-26
Lyn Guyett	Portland, ME, United States	2015-03-26
Sara Groves	Portland, ME, United States	2015-03-26
Kim Norton	Peaks Island, ME, United States	2015-03-26
Mariah Bergeron	Portland, ME, United States	2015-03-26
Janel Croll	Portland, ME, United States	2015-03-26
s. webster	Peaks Island, ME, United States	2015-03-26
Sarah Gelber	Portland, ME, United States	2015-03-26
Richard Caron	Peaks Island, ME, United States	2015-03-26
Wayne Roach	Portland, ME, United States	2015-03-26
Clare Kenny	Portland, ME, United States	2015-03-26
Meg Clews	Peaks Island, ME, United States	2015-03-26
Petra Simmons	Portland, ME, United States	2015-03-26
Deborah Jordan	Falmouth, ME, United States	2015-03-26
kate winn	South Portland, ME, United States	2015-03-26
Holly Lord	Portland, ME, United States	2015-03-26
Karen Friedman	Falmouth, ME, United States	2015-03-26
Casey Turner	Portland, ME, United States	2015-03-26
hudson jacobson	Portland, ME, United States	2015-03-26
Anne Panos	Peaks Island, ME, United States	2015-03-26
Elizabeth Hamill	Falmouth, ME, United States	2015-03-26
Cynthia Stewart	Waterville, ME, United States	2015-03-26
William Desmond	Peaks Island, ME, United States	2015-03-26
Andrew Hesselbart	Portland, ME, United States	2015-03-26
Priscilla Webster	Peaks Island, ME, United States	2015-03-26
David Lee	Portland, ME, United States	2015-03-26
Stewart Engesser	Kennebunkport, ME, United States	2015-03-26
Erin Murphy	Portland, ME, United States	2015-03-26
chris eaton	Portland, ME, United States	2015-03-26
Kristen Stake	Portland, ME, United States	2015-03-26
amanda houston	Portland, ME, United States	2015-03-26
Croix Galipault	Portland, ME, United States	2015-03-26

Name	Location	Date
Eva Goetz	South Portland, ME, United States	2015-03-26
Ron Slater	Portland, ME, United States	2015-03-26
claudine grange	Portland, ME, United States	2015-03-26
Alexis Seader	Portland, ME, United States	2015-03-26
Kim Anderson	Portland, ME, United States	2015-03-26
Erin foley	Portland, ME, United States	2015-03-26
Brittany Vara	New Gloucester, ME, United States	2015-03-26
Carrie morris	Portland, ME, United States	2015-03-26
Ben Davis	Auburn, ME, United States	2015-03-26
nicole anderson	Portland, ME, United States	2015-03-26
Melissa Pritchard	Portland, ME, United States	2015-03-26
Jeremy Hutchinson	Portland, ME, United States	2015-03-26
Megan Cullity	Portland, ME, United States	2015-03-26
Jed Bresette	Portland, ME, United States	2015-03-26
Robert Doherty sr	Portland, ME, United States	2015-03-26
Sara Armstrong	Portland, ME, United States	2015-03-26
Amanda Painter	Portland, ME, United States	2015-03-26
Kelly McCormack	Portland, ME, United States	2015-03-26
Elizabeth Garnatz	Portland, ME, United States	2015-03-26
Zoe Odlin-Platz	Portland, ME, United States	2015-03-26
Vanessa Romanoff	Portland, ME, United States	2015-03-26
matthew doucette	Portland, ME, United States	2015-03-26
Anne E Weber Weber	Portland, ME, United States	2015-03-26
Hillary Krapf	Portland, ME, United States	2015-03-26
Will Crosby	Peaks Island, ME, United States	2015-03-26
Marieke Van Der Steenhoven	Portland, ME, United States	2015-03-26
Charles Fosdick	Plymouth, MA, United States	2015-03-26
David Fay	Harvard, MA, United States	2015-03-26
molly johnson	Peaks Island, ME, United States	2015-03-26
ezra lee	Portland, ME, United States	2015-03-26
Christine Roderick	Portland, ME, United States	2015-03-26
Michael Mastranardi	South Portland, ME, United States	2015-03-26

Name	Location	Date
lisa morris	Portland, ME, United States	2015-03-26
Darrell Taylor	Portland, ME, United States	2015-03-26
Cathy Rumery	Portland, ME, United States	2015-03-26
Brian Steele	Freeport, ME, United States	2015-03-26
Evelyn Rysdyk	Yarmouth, ME, United States	2015-03-26
Chelsea Henry	Peaks Island, ME, United States	2015-03-26
paul cunningham	South Portland, ME, United States	2015-03-26
johannah hart obrien	Portland, ME, United States	2015-03-26
Jane Banquer	Peaks Island, ME, United States	2015-03-26
Joel Richardson	Portland, ME, United States	2015-03-26
Eva Fitzgerald	Portland, ME, United States	2015-03-26
Wendy West	Portland, ME, United States	2015-03-26
Susan McCulley	Portland, ME, United States	2015-03-26
Jeffrey Thompson	Portland, ME, United States	2015-03-26
Russell Hoskins	Portland, ME, United States	2015-03-26
Ian Carlsen	Portland, ME, United States	2015-03-26
Christopher Coose	Portland, ME, United States	2015-03-26
Jason Christie	Portland, ME, United States	2015-03-26
joy grannis	Portland, ME, United States	2015-03-26
Denis Obrien	Cumberland Foreside, ME, United States	2015-03-26
Susan Grenier	Portland, ME, United States	2015-03-26
Alexander Lehn	Portland, ME, United States	2015-03-26
lorraine schwellenbach	Portland, ME, United States	2015-03-26
Andre Ruotolo	Portland, ME, United States	2015-03-26
Pamela Richards	Portland, ME, United States	2015-03-26
jessica caruso	Portland, ME, United States	2015-03-26
Madeline Pettengill	Portland, ME, United States	2015-03-26
Connie Howe	Portland, ME, United States	2015-03-26
Ann and Peter Cannon	Peaks Island, ME, United States	2015-03-26
Kathleen Douglas	Gorham, ME, United States	2015-03-26
Kristin Espey	Portland, ME, United States	2015-03-26
Will Stewart	Portland, ME, United States	2015-03-26

Name	Location	Date
Carolyn Faust	Portland, ME, United States	2015-03-26
Lauren Genova	Portland, ME, United States	2015-03-26
BRUCE BATEMAN	Barrington, NH, United States	2015-03-26
Mark Robinson	North Yarmouth, ME, United States	2015-03-26
Debbie Glanville	Portland, ME, United States	2015-03-26
Sean Bolduc	Portland, ME, United States	2015-03-26
Stephanie Harris	Portland, ME, United States	2015-03-26
Lesli Chambers	Portland, ME, United States	2015-03-26
Sarah Waite	Portland, ME, United States	2015-03-26
Emma Maasch	Portland, ME, United States	2015-03-26
Tina Mooney	Pine Beach, NJ, United States	2015-03-26
Lindsay Laflamme	Portland, ME, United States	2015-03-26
erica jernell	Halethorpe, MD, United States	2015-03-26
Miranda Bartlett	Portland, ME, United States	2015-03-26
Karen Hamilton	Portland, ME, United States	2015-03-26
Zoë Dexter	Portland, ME, United States	2015-03-26
Tracy Liberty	Cornish, ME, United States	2015-03-26
Alicia Dussault	Portland, ME, United States	2015-03-26
Jared Burst	Portland, ME, United States	2015-03-26
Bethany Hutchinson	Portland, ME, United States	2015-03-26
Brenda Peluso	South Portland, ME, United States	2015-03-26
Nick Dussault	Portland, ME, United States	2015-03-26
Andrea Nilosek	Portland, ME, United States	2015-03-26
Larry VanHorne	Wells, ME, United States	2015-03-27
Rebecca Greenfield	Portland, ME, United States	2015-03-27
Nina Schmir	Portland, ME, United States	2015-03-27
Ginny Thompson	Topsham, ME, United States	2015-03-27
jen joaquin	south portland, ME, United States	2015-03-27
Liz crane	Portland, ME, United States	2015-03-27
Carol Aten	Portland, ME, United States	2015-03-27
Iris Piersiak	Wells, ME, United States	2015-03-27
Jessica Vogel	Portland, ME, United States	2015-03-27

Name	Location	Date
Donna Lanouette	Portland, ME, United States	2015-03-27
Jennifer collette	Peaks Island, ME, United States	2015-03-27
myles manns	South Portland, ME, United States	2015-03-27
Susan Tran	Portland, ME, United States	2015-03-27
Kat Moraros	Portland, ME, United States	2015-03-27
Matthew Rosler	Portland, ME, United States	2015-03-27
Kim Case	Portland, ME, United States	2015-03-27
Sarah martin	Portland, ME, United States	2015-03-27
Martha E Morris-Gibson	Peaks Island, ME, United States	2015-03-27
Sydney Stolfus	Portland, ME, United States	2015-03-27
Rebecca Smith	Portland, ME, United States	2015-03-27
Shelby Goldsmith	Portland, ME, United States	2015-03-27
Dawn Tully	Portland, ME, United States	2015-03-27
Rosemary Mahoney	Portland, ME, United States	2015-03-27
Jamie Silvestrini	Portland, ME, United States	2015-03-27
Tim Bissell	Limerick, ME, United States	2015-03-27
Marianne Westervelt	Portland, ME, United States	2015-03-27
Guy mcchesney	Portland, ME, United States	2015-03-27
Kacy Woodworth	Gorham, ME, United States	2015-03-27
David Wade	Portland, ME, United States	2015-03-27
Jeremiah McDonald	Portland, ME, United States	2015-03-27
ruth sylmor	France	2015-03-27
Christine Albert	Portland, ME, United States	2015-03-27
Martin Margulis	Portland, ME, United States	2015-03-27
Jerri Blatt	Peaks Island, ME, United States	2015-03-27
Santo Donatelli	Portland, ME, United States	2015-03-27
Laura Kulaw	Portland, ME, United States	2015-03-27
Arthur Fink	Peaks Island, ME, United States	2015-03-27
Sarah McKibben	Portland, ME, United States	2015-03-27
Andrew Roy	Portland, ME, United States	2015-03-27
R M	Portland, ME, United States	2015-03-27
michael geftic	Portland, ME, United States	2015-03-27

Name	Location	Date
Nina Murray	Portland, ME, United States	2015-03-27
Jessica Moore	Portland, ME, United States	2015-03-27
Leigh Kellis	Portland, ME, United States	2015-03-27
Britt Bolnick	South Portland, ME, United States	2015-03-27
Jenna Hargis	Portland, ME, United States	2015-03-27
Alexander Faunce	Portland, ME, United States	2015-03-27
Emily Baer	Portland, ME, United States	2015-03-27
a kraus	Portland, ME, United States	2015-03-27
Paul Russell	Portland, ME, United States	2015-03-27
Alicia Tholl	Portland, ME, United States	2015-03-27
Cheryl Sanchez	Portland, ME, United States	2015-03-27
Mike Rand	Brooktondale, NY, United States	2015-03-27
Melinda titus	Portland, ME, United States	2015-03-27
chrystin mullen	South Portland, ME, United States	2015-03-27
Julie Moulton	Westbrook, ME, United States	2015-03-27
Teresa McCarney	Burlington, VT, United States	2015-03-27
amy ray	Monmouth, ME, United States	2015-03-27
Asa Bradford	Portland, ME, United States	2015-03-27
Susan tully-young	Portland, ME, United States	2015-03-27
Jordan Kaltsas	Casco, ME, United States	2015-03-27
Geraldine Pembroke	Cape Elizabeth, ME, United States	2015-03-27
Lauren Ostis	Portland, ME, United States	2015-03-27
elizabeth smith	Portland, ME, United States	2015-03-27
Jeffrey Day	Portland, ME, United States	2015-03-27
Carlin Whitehouse	Portland, ME, United States	2015-03-27
lauren castro	Brooktondale, NY, United States	2015-03-27
Jessica Joaquin	Portland, ME, United States	2015-03-27
Susan Ashley	Peaks Island, ME, United States	2015-03-27
Tami Somers	Portland, ME, United States	2015-03-27
Jeremy Haskell	South Portland, ME, United States	2015-03-27
Bevin McNulty	portland, ME, United States	2015-03-27
Kate Christensen	Portland, ME, United States	2015-03-27

Name	Location	Date
Zeynep Turk	Portland, ME, United States	2015-03-27
Reagan Ames	Portland, ME, United States	2015-03-27
Jon D'Andrea	Portland, ME, United States	2015-03-27
Andrea Lopez	Portland, ME, United States	2015-03-27
Jacque Anquetil	Portland, ME, United States	2015-03-27
Matthew Foley	Portland, ME, United States	2015-03-27
Maxine Harmon	Long Island, ME, United States	2015-03-27
Barrett Littlefield	Portland, ME, United States	2015-03-27
Tina Smith	Portland, ME, United States	2015-03-27
DrewChristopher Joy	Bath, ME, United States	2015-03-27
Charlene Miller	Winston-Salem, NC, United States	2015-03-27
cliff gallant	Portland, ME, United States	2015-03-27
Nora Chap	Scarborough, ME, United States	2015-03-27
Sharon O'Neil	Portland, ME, United States	2015-03-27
Ero Barnett	Portland, ME, United States	2015-03-27
Sofia Proia a	Portland, ME, United States	2015-03-27
Meghan Quinn	Brooktondale, NY, United States	2015-03-27
Stan Skolfield	Gorham, ME, United States	2015-03-27
Lucinda Hannington	Portland, ME, United States	2015-03-27
Holly Seeliger	Portland, ME, United States	2015-03-27
Ann Marie Kane	Exeter, NH, United States	2015-03-27
Joe Joaquin	Tamworth, NH, United States	2015-03-27
Anna O'Sullivan	Portland, ME, United States	2015-03-27
Timothy Paradis	Portland, ME, United States	2015-03-27
Norm Proulx	Peaks Island, ME, United States	2015-03-27
Ann Comeau	Wasilla, AK, United States	2015-03-27
Tyler Harrison	Plattsmouth, NE, United States	2015-03-27
Susan Howe	Portland, ME, United States	2015-03-27
Chris Hayes	Portland, ME, United States	2015-03-27
Annemarie heisler	Portland, ME, United States	2015-03-27
Sarah Morneau	Portland, ME, United States	2015-03-27
Sarah Braun	Kingfield, ME, United States	2015-03-28

Name	Location	Date
Joan Braun	Weld, ME, United States	2015-03-28
Lesley Jones	Harrison, ME, United States	2015-03-28
Ella Hudson	Portland, ME, United States	2015-03-28
Elizabeth Stout	Portland, ME, United States	2015-03-28
Anthony Caterina	Portland, ME, United States	2015-03-28
Frances Mahoney	Portland, ME, United States	2015-03-28
Julie Poitras Santos	Brooktondale, NY, United States	2015-03-28
Karolina Peperni	Portland, ME, United States	2015-03-28
Jason Loring	Portland, ME, United States	2015-03-28
aaron Padula	Gorham, ME, United States	2015-03-28
Tessa O'Brien	Portland, ME, United States	2015-03-28
Julia Whyel	Portland, ME, United States	2015-03-28
Angela drinkwater	South Portland, ME, United States	2015-03-28
Jennifer Morgan	BALTIMORE, MD, United States	2015-03-28
Gigi Mall	Portland, ME, United States	2015-03-28
Jaime Zalac	Washington, DC, United States	2015-03-28
Bonnie Carlson-Phillips	Nobleboro, ME, United States	2015-03-28
Jennifer Rowe	Portland, ME, United States	2015-03-28
Samantha smith	Portland, ME, United States	2015-03-28
Susan Tremblay	Portland, ME, United States	2015-03-28
Eliot Hull	Portland, ME, United States	2015-03-28
Stacey Sevelowitz	Portland, ME, United States	2015-03-28
Brant dadaleares	Portland, ME, United States	2015-03-28
Kira Adler	Portland, ME, United States	2015-03-28
Jim Marchsnt	Portland, ME, United States	2015-03-28
Michael Fraser	Portland, ME, United States	2015-03-28
Craig Dilger	Portland, ME, United States	2015-03-28
Joshua Miranda	Portland, ME, United States	2015-03-28
Arlin smith	Portland, ME, United States	2015-03-28
Zachary poole	Portland, ME, United States	2015-03-28
Kate Pinkerton	Portland, ME, United States	2015-03-28
Edna Mosher	Portland, ME, United States	2015-03-28

Name	Location	Date
Linda Holtslander	Peaks Island, ME, United States	2015-03-28
Mike nappi	Portland, ME, United States	2015-03-28
Cynthia russell	Portland, ME, United States	2015-03-28
Aoife O'Brien	Portland, ME, United States	2015-03-28
Peter Brown	Portland, ME, United States	2015-03-28
Melanie Bolduc	Portland, ME, United States	2015-03-28
James Sharpe	Washington, VA, United States	2015-03-28
stephen harris	north yarouth, ME, United States	2015-03-28
Katherine Saunier	Hammond, WI, United States	2015-03-28
Caleb Collins	Brooktondale, NY, United States	2015-03-28
Rev. Tamara Torres McGovern	Portland, ME, United States	2015-03-28
Garrett fitzgerald	Portland, ME, United States	2015-03-28
Mark Bois	Honolulu, HI, United States	2015-03-28
sonya mcdonald	Portland, ME, United States	2015-03-28
Carolyn Boyle	Brooktondale, NY, United States	2015-03-28
Emily Scott	South Portland, ME, United States	2015-03-28
Kayly Mailhot	Portland, ME, United States	2015-03-28
Emily Pinyard	Portland, ME, United States	2015-03-28
Melissa Hoskins	Portland, ME, United States	2015-03-28
Eleanor Falby	Portland, ME, United States	2015-03-28
Michael Gatlin	Lewiston, ME, United States	2015-03-28
Joshua Corbin	South Portland, ME, United States	2015-03-28
Connie Cross	Casco, ME, United States	2015-03-28
Phyllis Reames	Portland, ME, United States	2015-03-28
Jennifer Flock	South Portland, ME, United States	2015-03-28
Leslie Oster	Portland, ME, United States	2015-03-28
Stephanie Babcock	Pittsfield, ME, United States	2015-03-28
Ryan smith	Portland, ME, United States	2015-03-28
neil andersen	gardiner, ME, United States	2015-03-28
Keelin Wasley	Portland, ME, United States	2015-03-28
Juliet Sweeney	Santa Fe, NM, United States	2015-03-28
Jeffrey Davison	Portland, ME, United States	2015-03-28

Name	Location	Date
Adam Liegner	Portland, ME, United States	2015-03-28
Lauren Anderson	Portland, ME, United States	2015-03-28
robert porcaro	Portland, ME, United States	2015-03-28
Elizabeth Simkoff	Portland, ME, United States	2015-03-28
Michelle G	Portland, ME, United States	2015-03-28
Guy Streitburger	Portland, ME, United States	2015-03-28
Pat Palmer	Portland, ME, United States	2015-03-28
Marilyn Blinkhorn	Portland, ME, United States	2015-03-28
Josh corbeau	Portland, ME, United States	2015-03-28
Matthew Glatz	Portland, ME, United States	2015-03-28
Samaya Jones	Portland, ME, United States	2015-03-28
Jane Barriault	Portland, ME, United States	2015-03-28
jacob anderson	Portland, ME, United States	2015-03-28
Brian O'Toole	Portland, ME, United States	2015-03-28
shannon miranda	Falmouth, ME, United States	2015-03-28
ezra provost	Portland, ME, United States	2015-03-28
Jenna Crowder	Portland, ME, United States	2015-03-28
Jill Finberg	Portland, ME, United States	2015-03-28
Conor Tubbs	Portland, ME, United States	2015-03-28
Bryan Hayes	Portland, ME, United States	2015-03-28
Caleb cole	Portland, ME, United States	2015-03-28
Sarah Mills	Portland, ME, United States	2015-03-28
Molly Fox	Portland, ME, United States	2015-03-28
Timothy Doyle	San Francisco, CA, United States	2015-03-28
Michael Thomas	Portland, ME, United States	2015-03-28
Sarah Morrill	Portland, ME, United States	2015-03-29
Rita Rubin-Long	Portland, ME, United States	2015-03-29
Adrian Demos	Torrance, CA, United States	2015-03-29
Kristen Walker	Portland, ME, United States	2015-03-29
Carol Toroomian	Brunswick, ME, United States	2015-03-29
Padraic Keane	Portland, ME, United States	2015-03-29
KELLY WORSTER	Portland, ME, United States	2015-03-29

Name	Location	Date
anna niegowska	Buxton, ME, United States	2015-03-29
Caseylin Darcy	Portland, ME, United States	2015-03-29
Sarah Rulman	Windham, ME, United States	2015-03-29
Andres Verzosa	Newington, CT, United States	2015-03-29
susan butler	windham, ME, United States	2015-03-29
Matthew Robedee	Portland, ME, United States	2015-03-29
Fran Shanley	Portland, ME, United States	2015-03-29
Tiki Fuhro	Gardiner, ME, United States	2015-03-29
david timm	Portland, ME, United States	2015-03-29
Brendan cavanaugh	New York, NY, United States	2015-03-29
Kate Somerville	Portland, ME, United States	2015-03-29
Aymes Bragdon	Portland, ME, United States	2015-03-29
Dup Crosson	Harpswell, ME, United States	2015-03-29
Adeline Tryon	Portland, ME, United States	2015-03-29
Rae Cousins	Portland, ME, United States	2015-03-29
Joel Pelletier	Portland, ME, United States	2015-03-29
Katie Lee	Portland, ME, United States	2015-03-29
Jolene McGowan	Farmington, ME, United States	2015-03-29
jennifer Bragdon	Peaks Island, ME, United States	2015-03-29
Carson Lynch	Portland, ME, United States	2015-03-29
Gladys casado	Bronx, NY, United States	2015-03-29
Tracey Menard	Portland, ME, United States	2015-03-29
Keely Dillon	Bremerton, WA, United States	2015-03-30
Cynthia Bartlett	Portland, ME, United States	2015-03-30
Chris McCoy	Portland, ME, United States	2015-03-30
Justin Glover	Portland, ME, United States	2015-03-30
Alison Kamar	Portland, ME, United States	2015-03-30
Albert Cloutier	Portland, ME, United States	2015-03-30
Cherie Wendelken	Brooktondale, NY, United States	2015-03-30
Catherine Berce	Portland, ME, United States	2015-03-30
John Dwyer	Cape Elizabeth, ME, United States	2015-03-30
gina hancock	Porter, ME, United States	2015-03-30

Name	Location	Date
Doris Ortiz	Portland, ME, United States	2015-03-30
Anne Riggs	Portland, ME, United States	2015-03-30
Theresa Whelan	Portland, ME, United States	2015-03-30
Ellen mcdonald	Portland, ME, United States	2015-03-30
Ashley Bunting	Portland, ME, United States	2015-03-30
Nina Hope	Portland, ME, United States	2015-03-30
Stephen Davis	Portland, ME, United States	2015-03-30
Andrew Barbo	Portland, ME, United States	2015-03-30
John Murton	Portland, ME, United States	2015-03-30
Elizabeth Kilbreth	Portland, ME, United States	2015-03-30
Heather Foran	South Portland, ME, United States	2015-03-30
Matt Brown	Portland, ME, United States	2015-03-30
Bobbi Lennie	Portland, ME, United States	2015-03-30
Amanda Atkinson-Lewis	Portland, ME, United States	2015-03-30
richard mccallum	Portland, ME, United States	2015-03-31
Sophia McGovern	Portland, ME, United States	2015-03-31
Tara O'Connor	Portland, ME, United States	2015-03-31
Rachel King	Portland, ME, United States	2015-03-31
Kerin Leche	Portland, ME, United States	2015-03-31
will gottshalk	Portland, ME, United States	2015-03-31
Hayley Shriner	Portland, ME, United States	2015-03-31
Michael Jurnovoy	Hanover, ME, United States	2015-03-31
Joanne Balzano-LaRusso	Arlington, VA, United States	2015-03-31
Lori beaulieu	Rensselaer, NY, United States	2015-03-31
Ashley Edmondson	Portland, ME, United States	2015-03-31
Brian Peterson	Gorham, ME, United States	2015-03-31
Rana O'Connor	Portland, ME, United States	2015-03-31
Dorson Plourde	Portland, ME, United States	2015-03-31
Kelly foster	Portland, ME, United States	2015-03-31
Jennifer Cavanaugh	Portland, ME, United States	2015-03-31
Layla Oconnor	Portland, ME, United States	2015-03-31
rob lieber	Portland, ME, United States	2015-04-01

Name	Location	Date
Charles Burr	Peaks Island, ME, United States	2015-04-01
Anthony Rieger	Portland, ME, United States	2015-04-01
Lynn Curit-Smith	Portland, ME, United States	2015-04-01
Richard Latons	Portland, ME, United States	2015-04-01
Jacob Folsom	Portland, ME, United States	2015-04-01
Krystal Talbot	Portland, ME, United States	2015-04-01
Tavia Gilbert	Brooklyn, NY, United States	2015-04-01
Stephanie Gildart	Portland, ME, United States	2015-04-01
Rebecca Hunt	Portland, ME, United States	2015-04-01
Gabby kelley	Westbrook, ME, United States	2015-04-01
Leah Piracci	Portland, ME, United States	2015-04-01
Noëlle Miliard	Cape Elizabeth, ME, United States	2015-04-01
Brent Rand	Cape Elizabeth, ME, United States	2015-04-01
Marya Baron	Portland, ME, United States	2015-04-01
Megan Shute	Portland, ME, United States	2015-04-01
Sean Flaim	Portland, ME, United States	2015-04-01
Elizabeth Boyson	Portland, ME, United States	2015-04-01
Jordan Kratz	Portland, ME, United States	2015-04-01
Laura Romasco	Portland, ME, United States	2015-04-01
Eric Gartmayer	Portland, ME, United States	2015-04-01
Kyle Richards-Connolly	Portland, ME, United States	2015-04-01
liz marks	Portland, ME, United States	2015-04-01
erin finn	Tampa, FL, United States	2015-04-01
April Forristall	Portland, ME, United States	2015-04-01
Larry Hayden	Bath, ME, United States	2015-04-01
Pat McKeen	Windham, ME, United States	2015-04-01
Colleen Jones-Turner	South Portland, ME, United States	2015-04-01
kathy silver	Portland, ME, United States	2015-04-01
Amy Carole	Portland, ME, United States	2015-04-01
Lindsay Clarke	Portland, ME, United States	2015-04-01
Sarah Howard	Portland, ME, United States	2015-04-01
Eliza Lopes	Portland, ME, United States	2015-04-01

Name	Location	Date
Courtenay Hayes	Melbourne, FL, United States	2015-04-01
Nadine Bouchard	Portland, ME, United States	2015-04-01
Ashley Jordan	Portland, ME, United States	2015-04-01
Maria Lorello	Portland, ME, United States	2015-04-01
Jennifer Nguyen	Portland, ME, United States	2015-04-01
Rachel Doe	Portland, ME, United States	2015-04-01
Kim Jordan	Portland, ME, United States	2015-04-01
Melinda Irving	Portland, ME, United States	2015-04-01
Derek gierhan	Portland, ME, United States	2015-04-01
C Dolan	Lisbon, ME, United States	2015-04-01
Sarah whitridge	Portland, ME, United States	2015-04-01
Ann Murray	Portland, ME, United States	2015-04-01
Allison Davis	Dover, NH, United States	2015-04-01
Tracy london	Portland, ME, United States	2015-04-01
Benjamin Douglass	Portland, ME, United States	2015-04-01
Jenifer Lloyd	Portland, ME, United States	2015-04-02
Meghan Langella	Portland, ME, United States	2015-04-02
Kate romasco	Portland, ME, United States	2015-04-02
Regina Bahr	Portland, ME, United States	2015-04-02
Samar Jamali	Portland, ME, United States	2015-04-02
JoAnn Dowe	Portland, ME, United States	2015-04-02
Crista Getchell	Portland, ME, United States	2015-04-02
Brian Doody	Portland, ME, United States	2015-04-02
Melissa Baker	Portland, ME, United States	2015-04-02
Evan Daigle	Portland, ME, United States	2015-04-02
Whitney DeSena	Waterville, ME, United States	2015-04-02

Comments

Name	Location	Date	Comment
Margaret P. Macomber	Portland, ME	2015-03-23	I don't want major asset of the city to turn into an eyesore.
Jean Mc Manamy	Portland, ME	2015-03-23	This project could be great, so long as a few changes are made in the proposed zoning.
bBARBARA vESTAL	Portland, ME	2015-03-23	I think it is critical to protect the integrity of the 2004 master planning process and all the hard work done then.
angela adams	Portland, ME	2015-03-23	This site is the jewel of Portland and should be accessible to all. We need to protect it for future generations.
Lindsey Pabst	Portland, ME	2015-03-23	I love the eastern prom and would hate for the view to be obstructed by large buildings!
angela adams	Portland, ME	2015-03-23	I care about Portland and the neighborhood and want to protect it for the future!
David Cray	Portland, ME	2015-03-23	I live on munjoy hill and I care about our working waterfront
Madeline Macomber	Portland, ME	2015-03-23	The Portland Company buildings have housed many memories and continue to be a site of vibrant community events that I don't want to see lost.
Ellen Bailey	Portland, ME	2015-03-23	I live in East Bayside and use the Eastern Prom trail almost daily in the warmer months. This area and its amazing view are what makes Portland a remarkable city. This view should be accessible to all, not just a very few. Development in this area must be considerate of all residents and visitors, current and future. Allowing thoughtless high rise structures in this area of Portland will ruin the area for generations still to come! We must protect this treasure.
Emily weston	Portland, ME	2015-03-23	i live on Munjoy Hill and want to protect the view of the Harbor and residents ability to enjoy their natural surroundings.
Brian Danz	Portland, ME	2015-03-23	Development is great; over-development is not. Keep Portland personal!
Julie Smith	Portland, ME	2015-03-23	I do not want to see massive over development on the east end water front and the loss of water views as well as noise pollution for it's residents. Also the east end trail is a vital transportation path for commuters and needs to stay open for all to use.
Laura Fuller	Falmouth, ME	2015-03-23	My business has been on Munjoy Hill for nearly 10 years- I've watched it change drastically already and the charm is being whittled away- and any street parking for my business is already gone-that was one of the things that was a plus for the space (which was disgusting when I took it) and inspired me to invest and fix it up.
Anne Rand	Portland, ME	2015-03-23	development is fine but shouldn't rob the citizens of their historic water views. Portland is a special place because it is surrounded by natural beauty and the ability of all people to enjoy it.

Name	Location	Date	Comment
Lydia Savage	Portland, ME	2015-03-23	The city must exercise stewardship for all its citizens and protect the view because once it is gone, it is gone. Union Station comes to mind as an example of irreversible decisions made and lost landscapes. The Portland company can be redeveloped with profit at a lower height or using its existing footprint. Asking citizens to lose a panoramic view for corporate interests is wrong - the long term preservation of the Fore Street view makes all of Portland prosper as tourists, visitors and residents alike can enjoy the city without having to access only one or two narrow corridors for a view. Chopping the view into corridors that can be gazed at from designated viewing spots would make Portland look like Boston or San Francisco. One would have to park (usually pay) and walk to know that one is near the ocean. The ability to view a working waterfront and track ferries as they go from terminal to island or tankers as they past lighthouses is one of the remarkable aspects of the Fore Street Panoramic view. Driving or walking past that view is one of the aspects of our daily lives for many of us that make living and working in Portland special and unique.
Edwin Chester	Portland, ME	2015-03-23	This development should not go forward without reasonable restrictions as suggested in this Petition. A reasonable developer would not object.
Lydia Savage	Portland, ME	2015-03-23	Keep Portland view's accessible - don't make this beautiful city like Boston or San Francisco where you have to park and walk to know you are on the water! It benefits all of us - residents, tourists and businesses to keep this view.
Sharon Timberlake	Portland, ME	2015-03-23	This will be a significant improvement to the area and offer many opportunities and benefits for this city and those who live and visit here.
Sharon Quatrano	Biddeford, ME	2015-03-23	I grew up on Munjoy Hill and it is a unique and wonderful place. The view and beauty give people unending hours of peaceful reflection and solace. Many people including myself drive back there to take in the view and reflect on childhood memories. It would be a terrible mistake to block that view from many to please a few. No one should own the beauty of the coastline or be allowed to block it from the view of the general public or other local residents.
mary emmons	portland, ME	2015-03-23	i grew up on the hill. What the developers and the city council are doing to this beautiful city is a shame.
Linda McLendon	Port Charlotte, FL	2015-03-23	My home Munjoy Hill should be able to maintain the beauty it has had for hundreds of years.
Lisa Dornbek	Portland, ME	2015-03-23	I believe development needs to be INTEGRATED into the community, taking into consideration those who live here, and buildings special to its history be preserved and refurbished with care.
Lynn Brown	Portland, ME	2015-03-23	I want Munjoy Hill Back to the way it used to be.....
Pamela Hillman	Biddeford, ME	2015-03-23	i grew up on Munjoy Hill and want to see it preserved for future generations
Patricia Guimond	York, ME	2015-03-23	I grew up on the hill and the beauty of the ocean should not be blocked by condo's or buildings so people can make money from real estate. Too many thinks on the hill have been changed over the years and it is time to stand up to these developers! Thank you
Luanne Balzano-Brookes	Cumberland, ME	2015-03-23	I am signing this because I want the public's interest protected.
Jamie Adamo	South Portland, ME	2015-03-24	I grew up on Monjoy Hill it does not need any more buildings that don't fit in to the Munjoy Hill landscape.
maria lundy	Westbrook, ME	2015-03-24	We need to preserve what is left of the waterfront. ...

Name	Location	Date	Comment
Heather Curtis	Portland, ME	2015-03-24	This development is simply unacceptable. The wealth of a city is about the quality of life it provides its citizens! (While I no longer live on Munjoy Hill, in the proposed shadow of these buildings, I raised my children here, and some of them still live on the Hill, as well as many dear friends, whom I visit often.)
Diane Mosiello	newport news, VA	2015-03-24	as a former resident and one who loves to come home to visit, its bad enough what has been destroyed but PLEASE rethink this zoning and leave our views & trails intact!!
Keri Lord	Portland, ME	2015-03-24	The Fore St vista and the Portland Company are part of the soul of my city....private communities are not part of the soul of my city.
Mary Ellen Deschenes	Portland, ME	2015-03-24	I strongly believe this unique and beautiful resource needs to be protected for the enjoyment of all present and future residents of portland.
julie lawson	Tampa, FL	2015-03-24	Portland is beautiful and we need to stop pushing the natives out!!!! Its all about the money with contracts and not the quality of life.
Kathy St Clair	Portland, ME	2015-03-24	I don't want public access privatized and any buildings built higher than current height.
Katherine Ford	Portland, ME	2015-03-24	I want the trail protected
Michael Hight	Portland, ME	2015-03-24	I am signing this petition because I spent from age 10 to 36 living on Morning St, Vesper St and the Eastern Promenade and cannot voice strong enough opposition to the proposal allowing obstruction of our beautiful Portland Harbor and also making this proposed "community" gated!! Is there anybody on the Portland Planning board who has any foresight at all? Think back to early 1960, particularly August 1961 when the city fathers thought it a great idea to demolish the iconic, beautiful Union Station! Further into the 60's Wiping out the Little Italy section of Portland, destroying the neighborhood of the Bayside area of the city, replacing the well cared for apartment, tenement and single family buildings, with ugly, abstract buildings that are still ugly to this day. THINK before you act!
Nan Brett	Portland, ME	2015-03-24	I am very concerned about planned development in the area that is unchecked by reasonable standards, respect for neighbors and a reflection of the historic working waterfront.
Jessica Vallette	Portland, ME	2015-03-24	I love to walk in that area, even in the mud around all those old buildings.
Mike Cavanaugh	pORTLAND, ME	2015-03-24	as a long-time resident and taxpayer I believe the Council has a responsibility to protect our waterfront. The 4 criteria in this petition are reasonable and must be respected
Maggy Wolf	New Orleans, LA	2015-03-24	There have been many mistakes made in Portland in the past 50 years in the name of "development" and "progress". I want to pass down a beautiful Portland to my children and grandchildren.
Larry Buchholz	Portland, ME	2015-03-24	I'm a concerned property owner on Vesper St
james griffin	Wells, ME	2015-03-24	CITY COUNCIL HAS A HISTORY OF NOT DOING WHAT IS BEST FOR THE EAST END AND PORTLAND IN GENERAL.
Corey Bryant	Portland, ME	2015-03-24	While I support change and development in this great city, I do not support change that is exclusionary and will benefit only a small group of residents while taking one of the few remaining scenic views left on the peninsula.
Julie Vohs	Portland, ME	2015-03-24	I am a resident of Munjoy Hill and a view of the bay, and access to the waterfront is an integral component of the quality of life here, as well as real estate values.

Name	Location	Date	Comment
Denise Preisser	Wells, ME	2015-03-24	I support protection of the iconic vista that Fore Street has provided of Portland Harbor for a century. Keep the quaintness on Munjoy Hill quaint. Thoughtful development for the people is required of our elected officials.
Anna Sommo	Portland, OR	2015-03-25	Development should be for the good of all citizens!
Karen Winslow	Portland, ME	2015-03-25	this area should be kept in historic preservation and any development done should be in that historic context
Mary Westorf Casale	Portland, ME	2015-03-25	Progress and preservation . Not all change is good, or necessary . We live in the most beautiful place, and it should be protected as the treasure that it is.
Elsie Eastman	Kennebunk, ME	2015-03-25	I want Portland to stay beautiful and I want everyone to know what they are agreeing to before they agree.
Donald Klawinski	Portland, ME	2015-03-25	I hate the idea. Too many shops. Keep the character.
Christina Aceto	Portland, ME	2015-03-25	This would destroy the beauty that is Portland
Emilia Panish-Hoffmann	Portland, ME	2015-03-25	I believe in keeping Portland's classic/historic beauty alive and preserving views for everyone. The wellbeing and happiness of the residents of Portland should be important to everyone. Many people live here to be close to the water, and cutting off visual access as such is completely unfair.
Bethany Round	South Portland, ME	2015-03-25	The waterfront is for everyone.
Richard Heffern	Portland, ME	2015-03-25	I want the site to be developed in a way that is friendly to the residents of Munjoy Hill (including children). The public must have 24/7 access to the streets, sidewalks, trail, and waterfront on the site. The narrow gauge railroad must be preserved. The site must not become a "gated community" for rich folks.
Colin Sullivan-Stevens	Portland, ME	2015-03-25	It's very difficult to see the ocean from our ocean side city
Robert Barnes	Portland, ME	2015-03-25	I am an advocate for preserving the buildings that represent an important part of the fabric of Portland's manufacturing history. I also want to be sure that any development they do in this area does not encroach on public access to the shoreline trail and the views that exist nearby.
Kevin Leavitt	Portland, ME	2015-03-25	Munjoy is more than Boat shows, flower shows, conventions, concerts, road races, hotels, construction and marathons; some people actually live there.
Margaret Lyons	South Portland, ME	2015-03-25	Considering the gutting of 390 Congress, I have little faith that the same developer would voluntarily put historical thoughtfulness over profits.
Jay Davis	Portland, ME	2015-03-25	I want to see balanced development in Portland, ME where I live and work.
stephen tesh	Portland, ME	2015-03-25	to stop privatizing of public land.
Harriet Price	Portland, ME	2015-03-25	The Council has been wise before, so I'm trusting you/they won't "give a blank check" this time either. Thank you.
Carol Ross	Portland, ME	2015-03-25	We can't imagine the changes this area of Portland would undergo if Portland City Council approves the zoning change. Portland residents would have their water views taken away in that area and possible changes in the walking trails- all for the sake of money, money, money.
Marni Maynard	Portland, ME	2015-03-25	I believe in this petition because development needs to be responsible and reasonable to maintain the beauty of Portland.
Lissa Hunter	Portland, ME	2015-03-25	I have visited too many small cities that have been ruined by inappropriate development. I have always been proud that Portland has made good choices. I see that changing and want to support a more thoughtful development to keep Portland unique, attractive to tourists and a familiar home to its citizens.

Name	Location	Date	Comment
Robert Chaisson	Portland, ME	2015-03-25	I have lived in this town for a decade and a half. The development that has occurred in that time has systematically worked to erode the reasons that anyone should live in this town. Destroying the arts, music, and now food cultures here. Unless new development takes into consideration the reasons that anyone would live, and or move, here, it should be shut down. The housing rates have skyrocketed over the past decade, with wages actually declining. The economic landscape that allowed Portland to become a destination, where a talented and diverse work force was able to live in short proximity to their places of employment, while having enough to help fill the voids left at the end of tourist seasons, is soon becoming a memory, and the bubble will collapse. No new hotels or condos are needed in this town. Housing that is accessible and affordable to those that work in the industries that bring the tourists here needs to be the only focus of any new development. And that is baring in mind that the average worker in the most prominent industries in this town don't make more than \$10 an hour before taxes, and really are the only way that local businesses can stay open for the majority of the year.
Jacob Halpert	Portland, ME	2015-03-25	I want to preserve the historic character of my neighborhood
Elizabeth Weber	Portland, ME	2015-03-25	It is my right
Becki Thomas	Falmouth, ME	2015-03-25	Let's don't lose the fabulous vistas that everyone enjoys whether they live in Portland on Munjoy Hill or not!!
Carol Oehlschlager	North Waterboro, ME	2015-03-25	I love Portland.
Joseph Markley	Portland, ME	2015-03-26	I love the city I grew up in. I totally support reasoned and well thought out development, but there is such a thing as over development and I believe we're quickly reaching that stage.
sue cabot	Portland, ME	2015-03-26	I have something to say and want to be heard.
Nick Ramharter	Portland, ME	2015-03-26	I want to maintain the historical integrity of the Portland Company buildings on Fore Street.
Erin Smith	South Portland, ME	2015-03-26	I lived on munjoy hill 28 years. I am almost 31 years old. Please preserve the beautiful views of munjoys hill. Take these buildings to Falmouth.
Ivory Murphy-Rieger	Portland, ME	2015-03-26	Portland is beautiful and renowned for it's waterfront. The old buildings keep its character intact. I'd like it to stay that way.
Kristin Johnson	Augusta, ME	2015-03-26	This is a defining view of Portland, the east end. It would be a crime to fill it with buildings.
Delaine Brown	Portland, ME	2015-03-26	I live on the hill and walk the trails with my tiny child and family. I would like to continue to enjoy the harbor, the trails and the way of life we have here in Portland. Having this area be "private" or an extension of the old port is not the family friendly atmosphere I live here for.
Emma Holder	Portland, ME	2015-03-26	I'm signing because Portland and its entire waterfront is beautiful and we all want to see it and have access to it.
Diane Toepfer	Portland, ME	2015-03-26	I am saddened by the way Portland is changing into a generic city. What I loved about the east end was the charm that is being butchered by new development Mc Mansion/condos. No MORE!!!
STEFAN SMITH	praha, Czech Republic	2015-03-26	my hometown is loosing it's character that makes it so special and loved!
Ryan Taylor	Winchester, NH	2015-03-26	I'm signing because I grew up in Portland when it was maybe not at it's worst, but definitely not at it's best. While I do agree that a lot of what's happening in the city at this point is amazing, I still think handing people a blank check to do whatever they want is detrimental to Portland's growth and longevity atop the list of places to live.

Name	Location	Date	Comment
Deborah McCoy	Portland, ME	2015-03-26	The planned changes in zoning will change the face of Portland forever. Growth is good but to keep our city livable the growth should consider ALL that live & work here to begin with. Simply asking to protect our neighborhoods & think before we lose the integrity of what makes Portland livable. PLEASE.
christopher paquette	Hollis, ME	2015-03-26	This has been and can still be, an iconic venue for events. No one person should own this waterfront property, and we shouldn't have to rent a high priced hotel room to be there.
Josh Edlund	South Portland, ME	2015-03-26	enough is enough
Christopher Hamlin	Portland, ME	2015-03-26	The character of this neighborhood is the reason I choose to live here- and I don't want to see that totally changed.
Kathleen O'Malley	Portland, ME	2015-03-26	I'm signing this because I'll always be a Hill girl and I still love that Beautiful View !
Liz Trice	Portland, ME	2015-03-26	I love Portland.
laura hnatow	Brooktondale, NY	2015-03-26	I live on the very limited residential waterfront in portland and I work on the working waterfront on Custom House Wharf and I feel strongly that thoughtful development of the waterfront needs to be done with experienced and knowledgeable people from other already developed cities. We rely too heavily on people who are in their roles because they are the best option that exists here, but not because the best option we can actually resource. Hold a design competition and put it out to an international bid by landscape architecture firms. Poll the landscape architects in Maine-they are an amazing resource-bring them in and let them get involved. Bring the very skilled and talented architecture community into this project. The city council does not have the knowledge to do this-you need experienced professionals who can help. You would not hire a realtor to build your house-you'd hire an architect and building contractor.
Shelagh Leahy	Portland, ME	2015-03-26	Portland has done a uniquely wonderful job in development over the years...gentrification/revitalization has been, in the main, sensitive to city's unique architecture and vibe. Truly a model for cities around the country and world. Please maintain this sensibility for the good of Portland's citizens and visitors and for the long-term social and economic health of the city. Don't cave to greed.
Sheila Brennan Nee	Falmouth, ME	2015-03-26	This storied section of Portland will be protected while being repurposed, saving the historic essence of the waterfront while bringing redevelopment and revenue to the city.
Isabella Rieger	Portland, ME	2015-03-26	Portland's historical buildings are not only central to its aesthetic but to its culture and history. We deserve the right to preserve the landmarks that have made Portland great for over a century.
james cooper	Portland, ME	2015-03-26	i care about portlands future
Katy Casale-brewer	Portland, ME	2015-03-26	I am in agreement with the soul of portland and do not want to see our city to be over developed
Jonathan Reece	Portland, ME	2015-03-26	We need to be smart about development. For a good example, Take a look at 45 Montreal St...keeping the character in tact while making progress through development. The Portland Company site is an important piece of the charm of the East End, and of Portland. Please don't remove the character that has brought such attention to our city.
Wayne Roach	Portland, ME	2015-03-26	Portland doesn't need more luxury condos
Anne Panos	Portland, ME	2015-03-26	I love the Portland waterfront and its adjacent neighborhoods.
Elizabeth Hamill	Falmouth, ME	2015-03-26	I love to walk around Portland and use the trails, particularly on the east end

Name	Location	Date	Comment
Cynthia Stewart	Waterville, ME	2015-03-26	I'll never recover from the sadness of the destruction of the railroad building on St John St and the Holiday Inn on spring.
David Lee	Portland, ME	2015-03-26	I'd like to maintain a working waterfront and I especially do not want to see the trail altered.
chris eaton	Portland, ME	2015-03-26	i live here
Alexis Seader	Portland, ME	2015-03-26	To keep the soul of portland pure!
Carrie Morris	Portland, ME	2015-03-26	i live very close to this!
Melissa Pritchard	Portland, ME	2015-03-26	i treasure the unique quality of life in Portland. Please develop our waterfront thoughtfully!
Jeremy Hutchinson	Portland, ME	2015-03-26	Feeling connected to the water is what's great about Portland, don't let that slip away.
Amanda Painter	Portland, ME	2015-03-26	I've lived on Munjoy Hill for almost 9 years, and the rezoning being requested for this redevelopment of the Portland Company site is very upsetting to me in its disregard for current neighborhood residents.
Hillary Krapf	Portland, ME	2015-03-26	We have unique character and charm here... a history that does not deserved to be buried in pop up hotels and plastic.
Marieke Van Der Steenhoven	Portland, ME	2015-03-26	I'm signing because I grew up accessing the waterfront via a youth sailing program hosted at Portland Yacht Services and access to and availability of the waterfront for all Portland citizens is an important part of what makes Portland a unique and vibrant city.
David Fay	Still River, MA	2015-03-26	I don't live in Portland but I agree completely that the Portland waterfront needs to be protected from irresponsible development.
johannah hart obrien	Portland, ME	2015-03-26	Portland should be used by all her inhabitants and visitors not just the wealthy few who can afford private water front space
johannah hart obrien	Portland, ME	2015-03-26	This is our city, we pay taxes and we pay for comprehensive plans. They should be adhered to.
ezra lee	Portland, ME	2015-03-26	i am in this rally.
Darrell Taylor	Portland, ME	2015-03-26	NO, and NO. You don't know what you've lost till it's gone. Few cities have our aesthetic access to sea vistas. No Blank Check! What next? 15 storey parking garage at East End Beach? NO.
paul cunningham	so portland, ME	2015-03-26	We need a working waterfront and affordable housing not hote;s and condos for the wealthy,
johannah hart obrien	Portland, ME	2015-03-26	It's the right thing to do
Jane Banquer	Peaks Island, ME	2015-03-26	I support the petition to require all addresses in Portland be subject to the appropriate uses and restrictions established for their neighborhoods
Joel Richardson	Portland, ME	2015-03-26	I want the city councilors to follow the commissioned comprehensive plan paid for by us tax payers
Wendy West	South Portland, ME	2015-03-26	Portland is undergoing a seige of irresponsible, unsustainable development, and this is just one more instance. Why doesn't the City Council care more about this gem?
Clyde McCulley	Portland, ME	2015-03-26	I believe that community conscious development will grow Portland in a way that will make it the envy of other similar sized US cities. Good for business, good for tourism and good for residents.
Jeffrey Thompson	Portland, ME	2015-03-26	I am for development in Portland but I don't wanted to change Portland's character.

Name	Location	Date	Comment
Ian Carlsen	Portland, ME	2015-03-26	The unspoiled views of Casco Bay are what make Portland an amazing city. This mistake has been made before, and there are plenty of high-rise eyesores around Munjoy Hill to prove it.
Lorraine Schwellenbach	Portland, ME	2015-03-26	i'm concerned about height of buildings, removing historical buildings and public access
Connie Howe	Portland, ME	2015-03-26	I do not want private developers to take over public access along the waterfront.
Lauren Hastings	Portland, ME	2015-03-26	Portland has a history that is vital to its identity and we can't just sell out. We need to attract business and visitors who understand and want to understand who we really are.
Emma Maasch	Portland, ME	2015-03-26	I lived a two minute walk from here while I was in high school. The aesthetic of this area and the artifacts of portland history here has been an important part of the inception of my interest in community studies, a sense of place, and normative economics. I have taken hundreds of walks past this site and on the Eastern Prom. I am in love with Portland and I want to work in Portland as an adult in community investment, because it is filled with spaces that inspire me. Please protect this site, and please consider the implications of the many potential approaches to 'economic development' in Portland
Tina Mooney	Pine Beach, NJ	2015-03-26	I signing because my family lives in Portland Maine, and I visit there often. The best part about visiting besides my family is the beautiful waterfront. Save it!
Erica jernell	halethorpe, MD	2015-03-26	I am moving to Portland this summer. I would really hate for this to happen.
Karen Hamilton	Portland, ME	2015-03-26	I'm signing because this is my neighborhood, and walking Fore St is something I do at least twice a day. This view feeds my soul. It's why I live here, why I bought my house here in 1999.
brenda Peluso	so po, ME	2015-03-26	As a life long area resident, I care about the walkability and accessibility issues of my friends and neighbors in the east end area.
Jennifer collette	Peaks Island, ME	2015-03-27	i love my home on peaks island they way it is!
David Wade	Portland, ME	2015-03-27	Portland City Councillors are entrusted to protect the welfare of the city of Portland and its residents, that includes both developing it and preserving it for the future. However, sometimes the short term goals of the former can override longer term interests . It is in the longterm interests of the city and its people not to allow development to destroy the character and signature vistas of the city in the name of progress, when it it fact devalues the very things that makes Portland an attractive city for residents and visiting tourists.. I ask the City Councillors to look closely at what is at stake in the redevelopment of the Portland Company site and to ensure that it is carried out in a responsible and conscientious way that protects the public's interest to open vistas, waterfront access and open use of the Eastern Prom trail.
Arthur Fink	Peaks Island, ME	2015-03-27	While others look out at the harbor, I look first at the historic industrial city that is the Portland Company . . . wanting to see development that does not overwhelm this site, and also that does not interrupt the amazing view corridors. I look forward to responsible development, planned by developers, community members, and city staff working together. I don't want to total giveaway from the city to a developer group.

Name	Location	Date	Comment
Leigh Kellis	Portland, ME	2015-03-27	I was born and raised here. This city is an unusually charismatic and beautiful place to live. It is critical that we all protect our hometown as others discover the desirability of Portland and want to come here to develop land and make money. We can't let people capitalize on the beauty here at the expense of the quality of life for those who have lived here a long time. It's natural for people to want to develop, I understand that, but let's welcome it carefully, these are permanent decisions.
Emily Baer	Portland, ME	2015-03-27	I love Portland and I want to protect how amazing it is!
Teresa McCarney	Burlington, VT	2015-03-27	I believe in thoughtful development.
Jeffrey Day	Portland, ME	2015-03-27	I'm signing because significant property development in Portland, over the last few years, is destroying the small city charm and function of our area. The cost of living here has become absurd, and the landscape is getting uglier everyday with monstrous view-wrecking buildings and obscenely high priced housing and condos. Parking is already terrible, and affordable housing is scarce. Portland is turning into Boston. Property taxes are ridiculous, and moderate wage earners are losing their shirts. Please keep Fore Street development at a level acceptable to the residents. Stop the developers whose only aim is to build sky high with no clear understanding of the long term repercussions.
lauren castro	Brooktondale, NY	2015-03-27	I love my adopted hometown and would hate to see it forsake its natural beauty and history in the name of money
Tami Somers	Portland, ME	2015-03-27	The Open View used to be an Ordinance adopted by the Zoning Plan and I support Open Views to our waterways. Also, this is a neighborhood and should be treated as such. With all of the progress we have made these requests are reasonable.
Zeynep Turk	Portland, ME	2015-03-27	As a resident of Portland's East End Community I am concerned of over development.
Reagan Ames	Portland, ME	2015-03-27	I've lived in Portland my whole life and want to maintain it's integrity
Andrea Lopez	Portland, ME	2015-03-27	I'm tired of seeing ugly, tacky condos in the East and West End neighborhoods. Portland is a classy, old lady and needs to be treated with respect.
Matthew Foley	Portland, ME	2015-03-27	I live on Munjoy Hill..
Maxine Harmon	Long Island, ME	2015-03-27	I believe in preserving historical buildings in Portland
Tina Smith	Portland, ME	2015-03-27	I love my city and do not want it to continue to be gentrified. What is happening on the East End currently is an absolute disgrace to our city.
Claire Winston-Wade	Portland, ME	2015-03-27	Stop treating this beloved & historic city like an ATM machine. People live here.
Charlene Miller	Winston-Salem, NC	2015-03-27	I was born in Portland
cliff gallant	Portland, ME	2015-03-27	As proposed, the development will block views and Portland Trails will be diminished.
Ero Barnett	Portland, ME	2015-03-27	I was born and raised in this neighborhood and I am saddened by the way it's becoming more exclusive.
Kristen smith	Portland, ME	2015-03-27	I love our beautiful city
Anna O'Sullivan	Portland, ME	2015-03-27	I love Portland and I want to keep it that way.
Norm Proulx	Peaks Island, ME	2015-03-27	The livability of this city.
Ann Comeau	Wasilla, AK	2015-03-27	I'm signing because my daughter lives in Portland and I have spent many years visiting the beautiful city that it is.
Frederick Davies	Scarborough, ME	2015-03-28	With a rapidly increased appeal Portland has developed is the degradation of the things that make it great. Let's learn from our mistakes with Union Station.

Name	Location	Date	Comment
Sarah Morneau	Portland, ME	2015-03-28	I love my town because of it's visible connection to the ocean
Sarah Braun	Portland, ME	2015-03-28	I'm signing because I believe in keeping the Portland community a beautiful, walkable, and neighborly place.
Lesley Jones	Portland, ME	2015-03-28	I love historic sites that make our city unique!
Ella Hudson	Portland, ME	2015-03-28	I, too, am concerned that development interests and profit motives will supersede all other concerns. Once it is built, it is too late to make sure that Portland protects what makes it special.
Elizabeth Stout	Portland, ME	2015-03-28	keep Portland livable and beautiful!
julia whyel	Portland, ME	2015-03-28	this city will be destroyed by overdevelopment, please protect the blessing this city already is!
Angela drinkwater	South Portland, ME	2015-03-28	we got married in that building, and I lived for many years on the East End- it needs to stay as much like it is as possible..
Bonnie Carlson-Phillips	Nobleboro, ME	2015-03-28	Portland is a beautiful, vibrant city. Development can be good for everyone, and should be encouraged, but it should be thoughtful and considerate development with the best interest of the city and all of its residents in mind.
Jenny Rowe	Portland, ME	2015-03-28	Unchecked development will make our neighborhood less friendly to live in and can have unintended environmental consequences.
Susan Tremblay	Falmouth, ME	2015-03-28	We have gentrified Portland enough.
Kira Adler	Portland, ME	2015-03-28	Keep Portland's history, keep Portland's shoreline free of condos, keep development of Portland smart. ☐ Maine.
Michael Fraser	Portland, ME	2015-03-28	I love in the neighborhood
Kate Pinkerton	Portland, ME	2015-03-28	some things are too iconic to destroy...
Aoife O'Brien	Pittsburgh, PA	2015-03-28	Portland is my home and I used to live on the hill. The city is growing and changing and though it needs commerce it's views of the ocean are its heart. Please grow without losing our charm.
Katherine Saunier	Hammond, WI	2015-03-28	I love the Eastern Prom Trail! Portland's green open spaces are part of it's charm, if the trees and spaces were gone it would be just another over-developed concrete nightmare where a pretty place used to be.
Caleb Collins	South Portland, ME	2015-03-28	I believe in Portland as a liveable city for Mainers of all stripes.
Eleanor Falby	Portland, ME	2015-03-28	I am signing because I am interested in conscientious and careful development and preservation of the character of Portland.
Juliet Sweeney	Santa Fe, NM	2015-03-28	I'm signing because Portland is what I call home & HATE coming back to see more historical buildings demolished.... Keep what makes Portland, Portland
robert porcaro	Portland, ME	2015-03-28	I live and work in Portland. I went to school in Portland and I have a lot of happy memories from this town. I am proud to work here as a skilled blue collar mechanic. It's the working people, the craftsmen and women that have made Portland popular. Dock hands and fishermen populate our authentic working water front. Carpenters built and maintain the quaint town houses that give Munjoy Hill its charm. Our brewers and musicians and painters give the town its unique flavors and color and sounds, but God forbid if any of us want to actually live here. We built this town, we should at least be allowed to use it. Portland wouldn't be Portland without us
Elizabeth Simkoff	Portland, ME	2015-03-28	I do not want to see massive over development in Portland, Like I have seen in Miami Beach Fla.
Michelle Gagnon	derry, NH	2015-03-28	Because I value the public space and history in Portland
Guy Streiburger	Portland, ME	2015-03-28	I'm born and raised in Portland. I also have a business here. I don't want to see it lose its character that attracts tourists and its charm that has kept me here.

Name	Location	Date	Comment
Marilyn Blinkhorn	Portland, ME	2015-03-28	I have lived in this neighborhood for many years and wish to keep the integrity of this area intact.
Samaya Jones	Portland, ME	2015-03-28	we don't need another big hotel or any more million dollar cubist condos. we need affordable housing, community gardens, commercial and cultural space for all.
shannon miranda	Falmouth, ME	2015-03-28	I believe the "charm" of portland lies in its historic preservation. I hope to see this preservation continued with any development to the portland co. Complex
Sarah Mills	Portland, ME	2015-03-28	we Portlanders take so much pride in our city that we feel it is OURS to take special care of in making development decisions that will affect our lives for many years to come.
Timothy Doyle	San Francisco, CA	2015-03-28	I like Portland Maine
Adrian Demos	Torrance, CA	2015-03-29	Im signing because I come to Portland in the summer because it is NOT OVERDEVELOPED, and I want it to remain that way!
Andres Verzosa	Newington, CT	2015-03-29	I love my hometown Portland, ME!
Tiki Fuhro	Portland, ME	2015-03-29	I agree with all of the requests sited on this petition. This area of Portland is one of the reasons that residents and visitors find this city to be so special, access to the trail and the views of casco bay are unique and an extraordinary part of quality of life. Ann Rand's editorial in the press herald says it all.
Aymes Bragdon	Portland, ME	2015-03-29	these are reasonable requests. Portland is rapidly changing and we need to make sure we don't ruin some of the very things that make Portland amazing!
Adeline Tryon	Portland, ME	2015-03-29	I support this petition in full. Portland is a growing community and thoughtful development is key to maintaining Portland's charm and long valued character.
Rae Cousins	Portland, ME	2015-03-29	Unique property with historical significance and awesome views that need to be retained for all citizens of Portland and all visitors to Portland.
Jolene McGowan	Farmington, ME	2015-03-29	I'm signing because I have lived here since 1979 and want to preserve the best part of Portland and what ultimately attracts tourist to this town: brick, water, old, restaurants, authentic spaces and areas.
Jennifer Bragdon	Cambridge, MA	2015-03-29	im signing because I love the special look and feel of Portland
Carson Lynch	Portland, ME	2015-03-30	Enough with the land grab of Portland's waterfront.
Tracey Menard	Portland, ME	2015-03-30	Over the years, Portland - with dollar signs in its eyes - has been persuaded by developers to approve projects like Portland House, the other grey East End hulk, Franklin Towers, etc. Right now we have the chance to grow forward and still maintain our integrity as historic, scenic and walkable. As a Munjoy Hill resident, I want change that aligns with our positive attributes (walking trails and views) and doesn't negatively impact our neighborhood with eyesores and noise pollution.
Alison Kamar	Portland, ME	2015-03-30	I would hate to see another hotel and parking garage go into a space that has been the home of such an iconic and beautiful building! The portland company building is a historic and treasured building and that entire waterfront area is utilized by so many portlanders. I just don't want to see more places for tourists and less for people who call portland their home. And who needs more million dollar pretentious condos?
Albert Cloutier	Portland, ME	2015-03-30	One of the things that makes Portland a great city is the wisdom shown by our city fathers in keeping Portland a city for all it's citizens. We must continue to do so.

Name	Location	Date	Comment
Catherine Berce	Portland, ME	2015-03-30	I don't want the city to be ruined by high rises, chain stores and generic stuff that you can find in any city. Also, middle class and the poor and the public at large should at least be able to LOOK AT the ocean and port. Geesh. Is everything for sale? Portland has charm. You're going to make it unaffordable to most people if you fill the city with luxury condos and million dollar water views.
Nina Hope	Portland, ME	2015-03-30	We moved here to be part of a vibrant, port community. Not just for the wealthy, a community for all of us.
Bobbi Lennie	Portland, ME	2015-03-30	I love Portland and want to protect the integrity of the city!
Richard & Rene McCallum	Vero Beach, FL	2015-03-31	I want visual access to the water and not tall buildings blocking the public view
Tara O'Connor	Portland, ME	2015-03-31	I am 30 years old and have lived in Portland my entire life. There is one neighborhood I keep returning to- Munjoy Hill. It has evolved over the years in a way that has remained consistent with both the pride I feel for this city, and for the state. Please don't turn my town into every other city.
Joanne Balzano-LaRusso	Arlington, VA	2015-03-31	Our family home, and our second home is located at 52 Monument St. Munjoy Hill is experiencing a huge transition; a great increase of apartments, adding condos, etc. The historic footprint of this area of the City is in danger. It is rapidly changing. We need to protect the interests of residents in this area - we who live there. This zone change should be carefully considered to ensure, among other things, it will not change the vista of Casco Bay. This area needs to be safeguarded against further corporate development that takes into account financial gain only. The corporations do not live there, we do!
Dorson Plourde	Portland, ME	2015-04-01	PORTLAND!
Charles Burr	Peaks Island, ME	2015-04-01	I am not in favor of private development on the waterfront. Most of it is ugly and does not benefit the public as a whole.
Anthony Rieger	Portland, ME	2015-04-01	I want to preserve the character of the city I have called home for the last 48 years. The very reason people move here and stay here and love Portland is because of its character. We must all be very vigilant and protect our city against the very development that would change this character forever, all in the name of 'progress'. We have been warned by other residents of major cities against this very kind of rampant growth and 'progress' and mass development.
Stephanie Gildart	Portland, ME	2015-04-01	I think all tax payers and visitors of our great city should have the access the currently and previously have had to this area.
Megan Shute	Portland, ME	2015-04-01	I live on Munjoy Hill and believe it's important to protect community and neighborhood centered development!
Eric Gartmayer	Portland, ME	2015-04-01	History is important, new construction is generationally alienating and the residents of Munjoy Hill deserve a say in future plans for their home.
Colleen Jones-Turner	South Portland, ME	2015-04-01	I'm signing because I care. Redevelopment is a lovely idea, as long as it is done correctly. Putting the environment (both land & sea) and the neighbors 1st is key to that process. I wish them all the best in successfully creating a healthy, vibrant - all needs certified - with protected green space, project. I am available if they are looking for someone to help them with this. We could go solar and have roof gardens!

Name	Location	Date	Comment
Courtenay Hayes	Melbourne, FL	2015-04-01	I lived on Munjoy Hill for 12 years, & walked every street on the city peninsula; Portland is uniquely special because of the aged architecture that is still intact. The "modernization" has diminished The Old Port's historical & visual worth already. The rest should be preserved. Why ruin its special appeal & value?
Kim Jordan	Portland, ME	2015-04-01	I'm signing because I love my neighborhood and I don't want it to change!
Regina Bahr	Portland, ME	2015-04-02	Union Station Plaza was turned into a hideous eye sore from the same kind of thinking that we're dealing with nowadays. Let's not make the same mistake twice. Portland is fine just the way it is, and we don't need any more buildings to take away Portland's beauty, charm, and history. If developers want to build, go to Boston or somewhere else where the city has already been destroyed. Go to Lewiston...I'm sure they could use more developing to accommodate all the newcomers there, and it would create more jobs for Lewiston. Lol, lol, lol...
JoAnn Dowe	Portland, ME	2015-04-02	I'm signing because I do not want to loose the beautiful water view, and I am concerned about noise, the traffic and congestion that a development of this magnitude will bring to this quiet part of Portland. Plus it is going to drastically change the character of the east end, turning a small quaint neighborhood of one to three story houses into a giant block of square modern buildings packed in densely. I am also deeply concerned about losing the historically significant Portland Company Complex. It is all very sad to me.
Melissa Baker	Portland, ME	2015-04-02	Portland is my home and the best city in earth!
Geri Gajewski	South Portland, ME	2015-04-02	i have lived in portland for many years and do not want it over developed. I love our green spaces.

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**

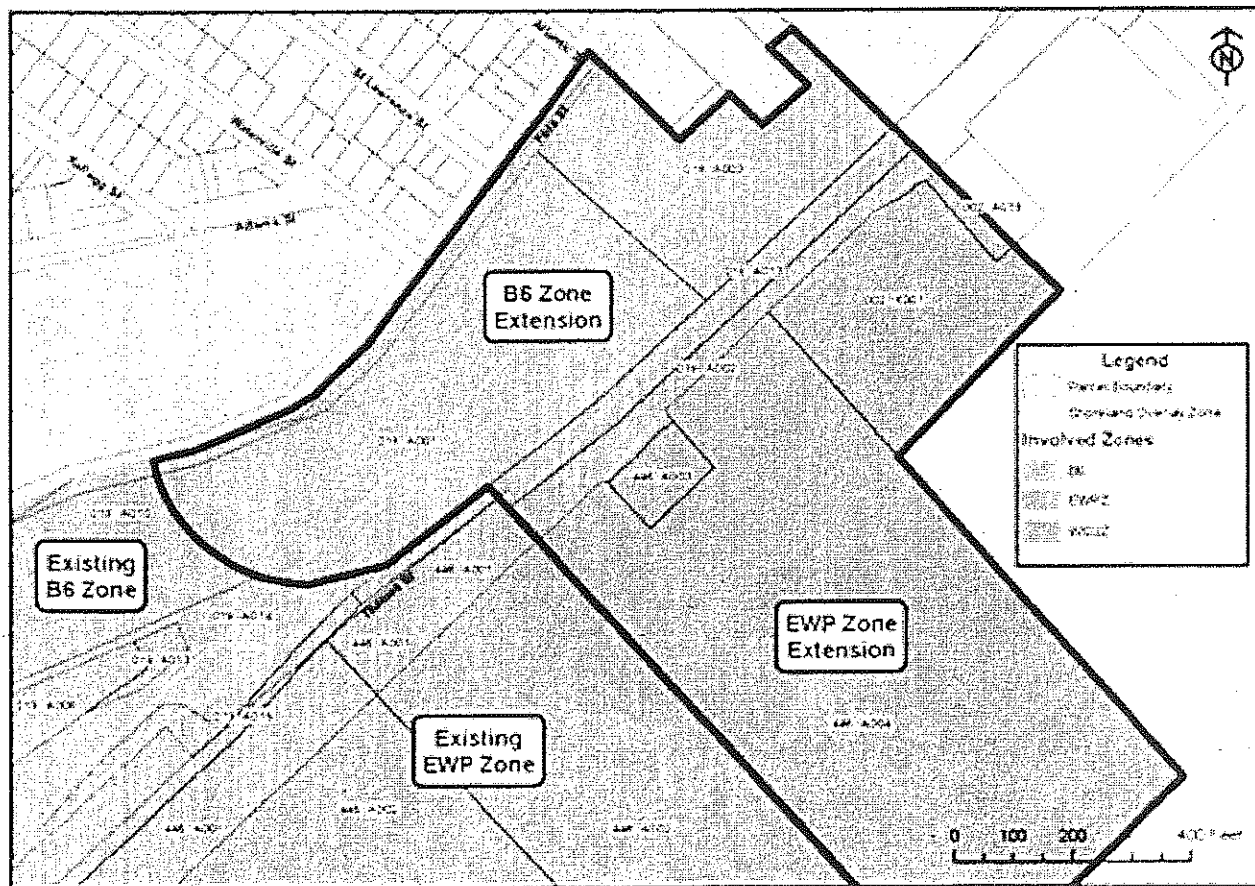
Order 185 - 14/15
~~Tab 14 3/6/15~~
~~Tab 29 4-6-15~~
Tab 4 6-1-15

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

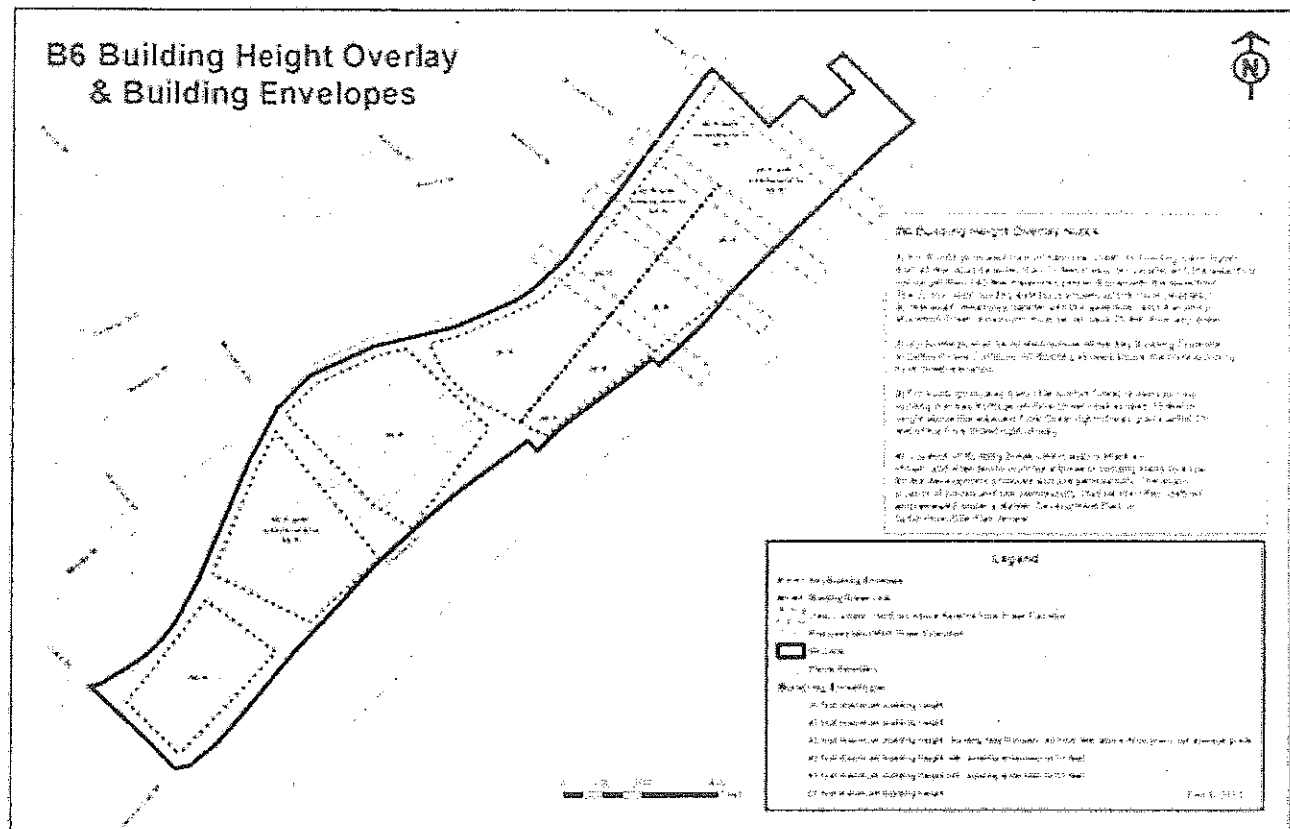
**AMENDMENT TO ZONING MAP
RE: 58 FORE STREET**

**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

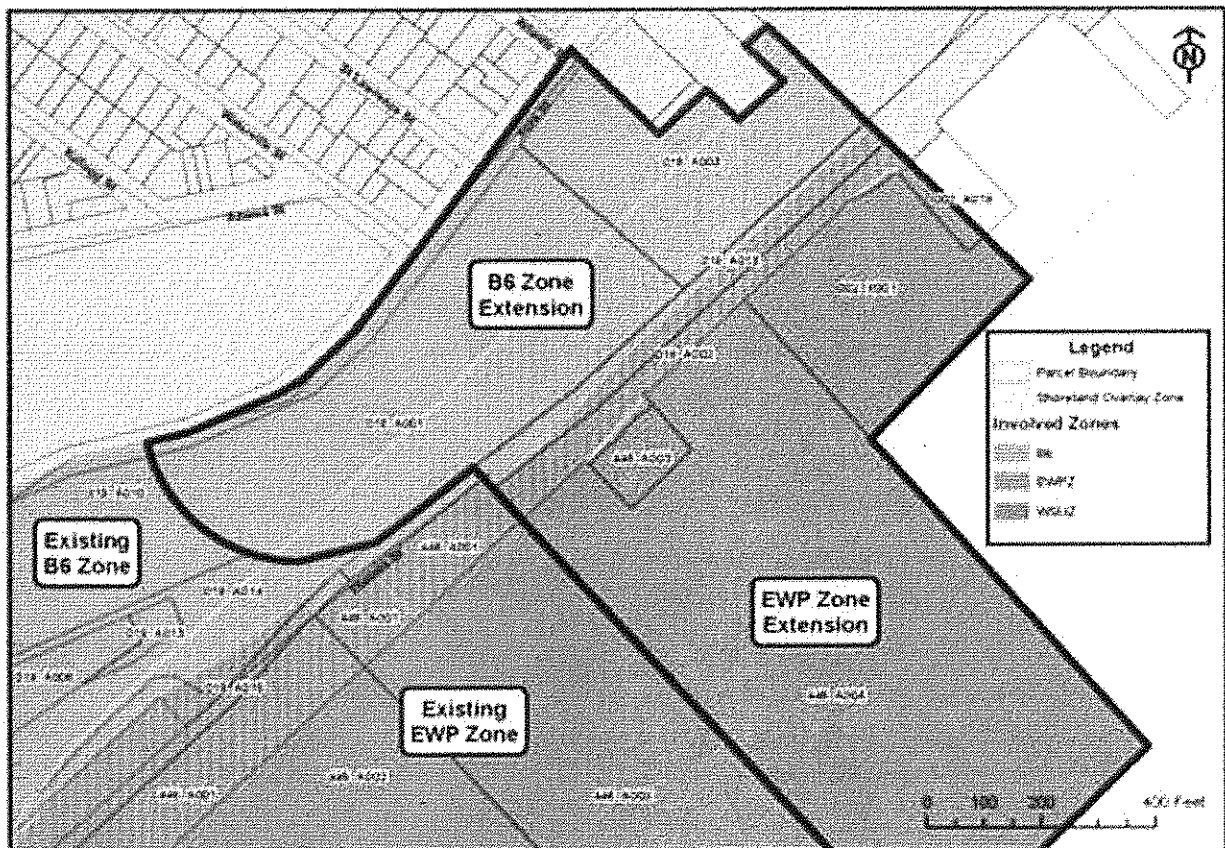


BE IT FURTHER ORDERED, that the B-6 Height Overlay & Building Envelopes Map be and hereby is amended by adopting the following map change amendment as depicted in the following area map.



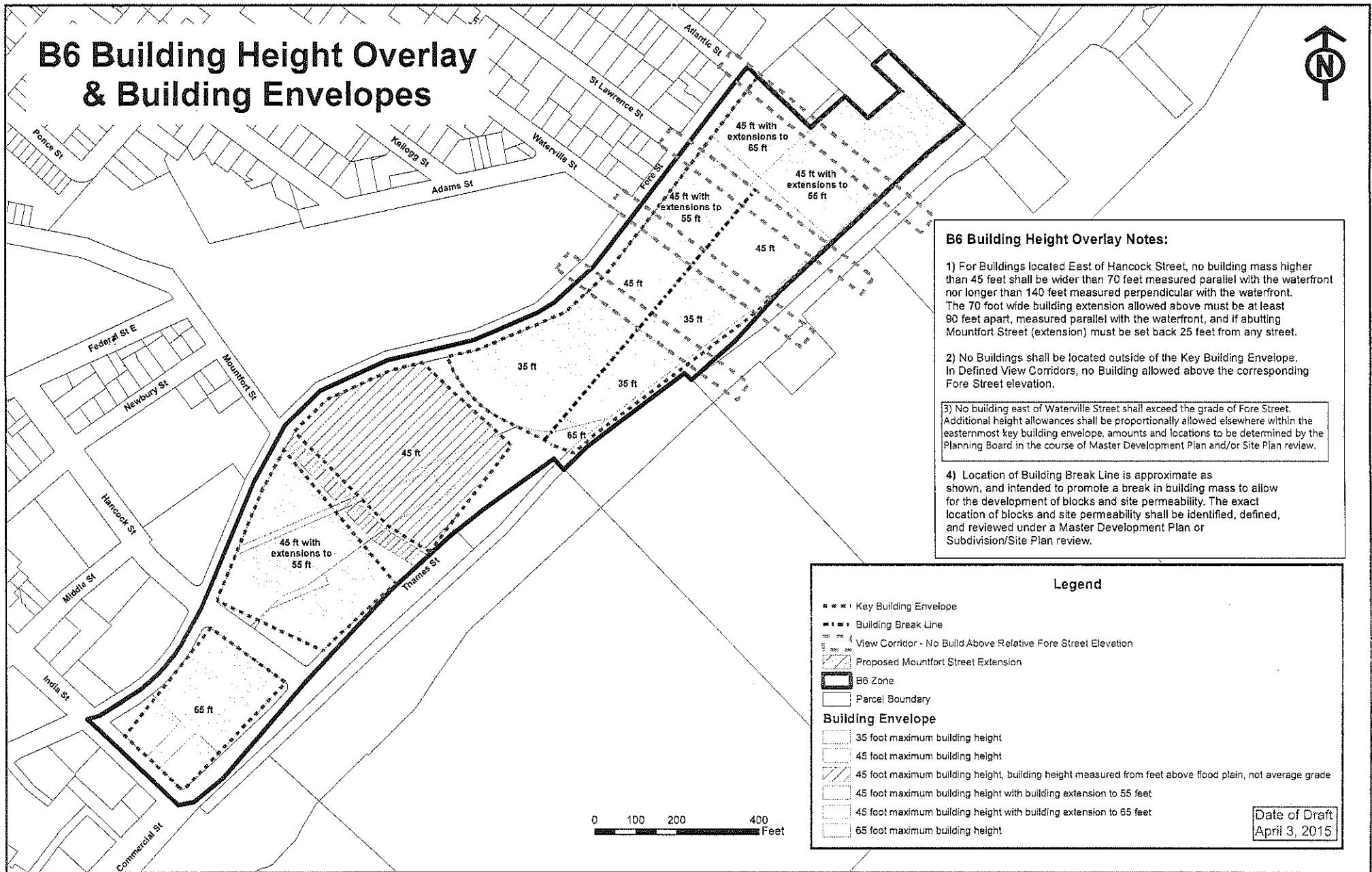
**AMENDMENT TO ZONING MAP
RE: 58 FORE STREET**

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.

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) No building east of Waterville Street shall exceed the grade of Fore Street. Additional height allowances shall be proportionally allowed elsewhere within the easternmost key building envelope, amounts and locations to be determined by the Planning Board in the course of Master Development Plan and/or Site Plan review.

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

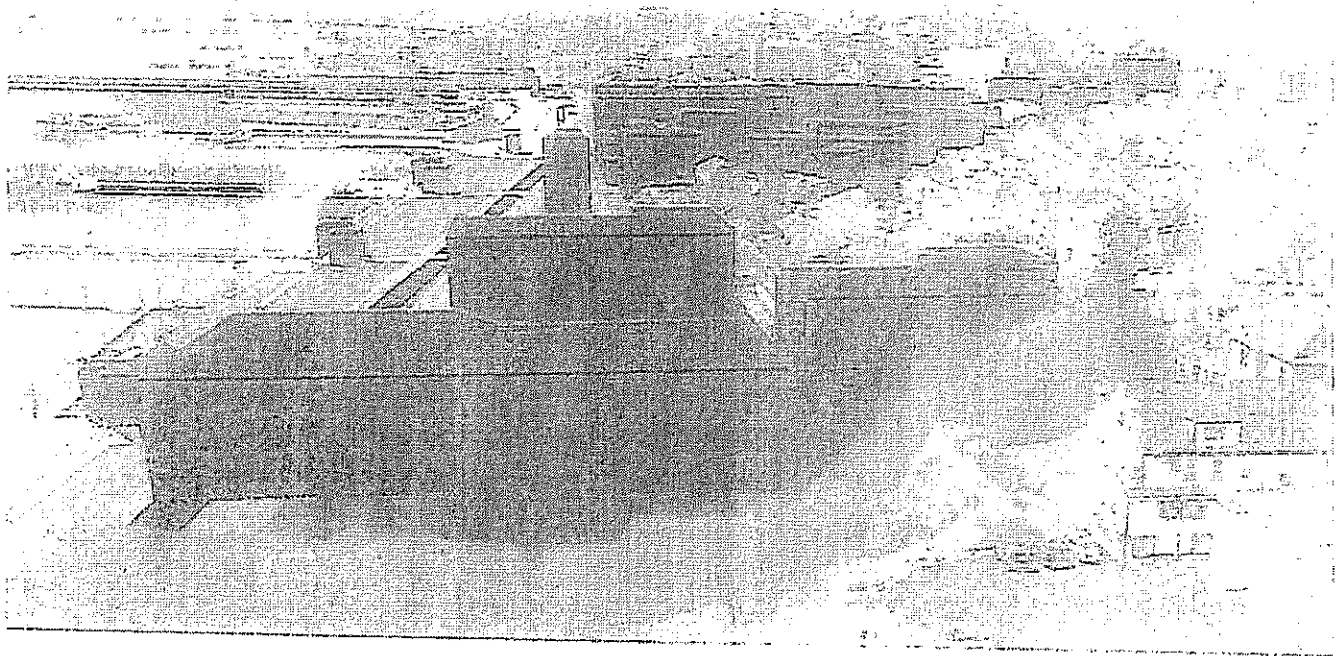
- 35 foot maximum building height
- 45 foot maximum building height
- 45 foot maximum building height, building height measured from feet above flood plain, not average grade
- 45 foot maximum building height with building extension to 55 feet
- 45 foot maximum building height with building extension to 65 feet
- 65 foot maximum building height

Date of Draft
April 3, 2015

EXHIBIT 1

Draft Report

Eastern Waterfront Building Height Study
Portland, Maine



25 August 2004

prepared by:

City of Portland Planning Office
MRLO, LLC



1. NO BUILDING ABOVE 5 FLOORS SHALL BE WIDER THAN 70' PARALLEL WITH THE WATERFRONT AND LONGER THAN 140' PERPENDICULAR WITH THE WATERFRONT.

2. 7'-0" WIDE TOWER/BUILDING AREAS ARE A MINIMUM OF 1'-0" APART, MEASURED PARALLEL WITH THE WATERFRONT

ALL BUILDING FLOORING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION



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Abstract

ILLUSTRATION 34: HEIGHT MAP / BLOCK CONCENTRATION
Eastern Waterfront Building Height Study
Portland, Maine

[illegible]

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 255-14/15
~~Feb 29 5-18-15~~
Tab 5 6-1-15

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE ARTICLE III. ZONING DIVISION 17
Re: Drive-in Banks in the B-7 Zone**

**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 17, Section 14-296
of the Portland City Code is hereby amended to read as follows:*

Sec. 14-296. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

1. Commercial use:

- a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
- b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
- c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and

- ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.; and
- iii. ~~All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line~~ The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stores in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply; and
- iv. ~~The 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~~ The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and
- v. ~~Drive-up vehicle circulation shall not be located between the building and any adjacent public streets~~ All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
- vi. ~~The drive-up shall be limited to two vehicle drive-up lanes~~ The site must have adequate stacking capacity for vehicles waiting to

use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and

vii. The location of any drive-up shall be limited to the geographic area between Somerset Street/I-295/Franklin Arterial/Forest Avenue. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and

viii. The drive-up shall be limited to two vehicle drive-up lanes; and

ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Street/Forest Avenue.

d. The expansion of automotive repair facilities existing as of March 9, 2005, but in no case shall such expansion over the life of the building exceed fifty percent (50%) of the gross floor area existing on March 9, 2005.

2. *Industrial uses:*

...

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Alexander Jaegerman, Planning Division Director

DATE: May 6, 2015

DISTRIBUTION: Sheila Hill-Christian, Acting City Manager, Mayor Brennan, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan, Jeff Levine, Jennifer Thompson

SUBJECT: B-7 Bank Drive Through Text Amendment

SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading May 18, 2015 Final Action June 1, 2015

Can action be taken at a later date: X Yes No (If no why not?) The applicant (Bangor Savings Bank) would like to start the site plan review with the PB as soon as possible, but appreciate that the CC agenda may be full and the hearing would need to be delayed to June 15th, 2015.

PRESENTATION: Planning Board Chair Stuart O'Brien and Alex Jaegerman, Planning Division Director, will make a brief presentation.

I. SUMMARY OF ISSUE (Agenda Description)

Bangor Savings Bank is requesting a text amendment in order to develop a small lot at 20 Marginal Way, within the B-7 zone, as a three story bank with drive through. The proposed zoning text amendment would amend the drive-through requirements of the B-7 Conditional Use standards (§14-296(a)1(c)) that currently require that bank drive-throughs must be within a building of at least 20,000 sq ft. The proposed text amendment would create an exception to this requirement for smaller buildings on small lots in existence at the time B-7 was first enacted on March 9, 2005.

On April 14, 2015, the Planning Board voted 5-0 (Boepple and O'Brien absent) that the proposed zoning text amendment (Attachment 1) to §14-296(a)1(c) (Conditional uses, B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the amendment to the City Council.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

The text amendment is proposed to allow bank drive-throughs in buildings with a smaller floor area than 20,000 sq ft. The proposed exception would enable redevelopment of 20 Marginal Way, currently a single-story car wash that is a grandfathered use, to construct a three story building facing on Marginal Way, which is more in keeping with the pattern of development envisioned in the Bayside Plan.

III. INTENDED RESULT

The proposed amendments would allow existing small lots under 20,000 sq ft to be developed with bank drive throughs and require all bank drive-throughs to be associated with buildings over three stories and that are designed with pedestrian orientation. Since testimony to the Planning Board suggested that bank developments need a drive-through to meet customer expectations, the amendment would facilitate bank developments on the several small lots in the B-7 zone where bank drive-throughs are allowed.

IV. COUNCIL GOAL ADDRESSED

The proposed amended conditional zoning agreement addresses the following Council goal:

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

The amendment would allow appropriate development that is currently prohibited by the B-7 conditional use requirements.

VI. PLANNING BOARD ANALYSIS

Bank drive-throughs are the only type of drive-through allowed in the B-7 zone. They are only allowed in the northern portion of the B-7 zone between Somerset/Kennebec Streets and I-295 and must meet the seven conditions set out in §14-296(a)1(c). The second condition currently states:

The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet; and

The applicant is able to meet all of the other conditions in this section but has requested a text amendment exception to the second condition in order to develop this small lot at 20 Marginal Way.

The applicant has stated that the lot size of 17,352 sq ft prevents the construction of a building of 20,000 sq ft and thus the proposal could not meet the second condition that limits a bank drive-through to being attached or included within a building with a minimum floor area of twenty thousand (20,000) square feet. (It should be noted that a 20,000 sf office would require 50 parking spaces, which would require a lot area of approximately 7,000 sf for the building footprint plus at least 15,000 square feet for parking if provided totally on-site, for a total of 22,000 square feet.) The applicant has stated that their proposal would be able to meet the other six (6) standards for a conditional use.

VII. RECOMMENDATION

During the review, the Planning Board sought to clarify the amended text language while maintaining the effect of a limited exception to condition ii for existing small lots, and requested additional provisions to reflect the goals of the Bayside Plan to achieve at least 3 stories of building height and pedestrian orientation for buildings associated with this conditional use.

The amended text supported by the Planning Board added two provisions that require all buildings that include a bank drive-through to meet the minimum height requirements of the zone, with no minimum height exemptions as contained in the ordinance for buildings, historic buildings and additions, and to require greater pedestrian orientation. Lastly, a text amendment to the last condition clarifies the description of the area where bank drive-throughs would be allowed within the B-7 zone.

On April 14, 2015, the Planning Board voted 5-0 (Boepple and O'Brien absent) that the proposed zoning text amendment (Attachment 1) to §14-296(a)1(c) (Conditional uses, B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the amendment to the City Council.

VIII. LIST ATTACHMENTS

1. Order (Text amendment attached 5.6.2015; order will be similar)
2. Planning Board Report to City Council

Prepared by: Jean Fraser

Date: Draft 5.5.2015

Text amendment as recommended by the Planning Board:

Sec.14-296. Conditional uses.

- (a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:
1. *Commercial use:*
 - a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
 - b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
 - c. **Drive-up banking** provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.; and
 - iii. The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stores in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply; and
 - iv. The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and
 - v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
 - vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
 - vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
 - viii. The drive-up shall be limited to two vehicle drive-up lanes; and
 - ix. The location of any drive-up shall be limited to the geographic area between Somerset/~~Kennebec~~ Streets/ I-295/Franklin Arterial ~~Street~~/Forest Avenue.

PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE



B-7 Bank Drive Through Text Amendment
20 Marginal Way
Bangor Savings Bank, Applicant
Project #: #2015-015

Submitted to: Portland City Council	Prepared by: Jean Fraser, Planner
From: Portland Planning Board	Date: May 6 th , 2015
Second City Council Reading: June 1, 2015	CBL: 113 A025001

I. INTRODUCTION

David Latulippe, agent, is requesting a text amendment on behalf of Bangor Savings Bank, applicant, in order to develop a small lot at 20 Marginal Way, within the B-7 zone, as a three story bank with drive through (Attachment A; Plans P1. to P4.). The proposed zoning text amendment would amend the drive-through requirements of the B-7 Conditional Use standards (§14-296(a)1(c)). These include the requirement that bank drive-throughs must be within a building of at least 20,000 sq ft.

The B-7 text amendment is requested to create an exception to this requirement as a building of this size is not feasible to build on a small lot of 17,352 sq ft. (currently the site of Northern Pride Autowash). The proposed text amendment would allow bank drive-throughs in smaller buildings that are located on small lots in existence at the time B-7 was first enacted, March 9, 2005.

The Planning Board held a public workshop on March 24, 2014 and a public hearing on April 14, 2015 regarding the proposed text amendments. The Board voted 5-0 (Boepple and O'Brien absent) that the proposed zoning text amendment to §14-296(a)1(c) (Conditional uses, B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the following amendment to the City Council.

Sec.14-296. Conditional uses.

- (a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:
1. *Commercial use:*
 - a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
 - b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
 - c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.
 - iii. The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stories in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply.

- iv. The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and
- v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
- vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
- vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
- viii. The drive-up shall be limited to two vehicle drive-up lanes; and
- ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin ~~Arterial~~ Street/Forest Avenue.

II. PUBLIC COMMENT

A notice of the City Council Hearing will be sent to the 43 property owners within 500 feet and interested citizens, and the legal advertisement will appear in *Portland Press-Herald* in accordance with the city's noticing requirements. A Neighborhood Meeting is not required for this project and the Planning Division has received two written comments of support, one from a local solar business, and one from the owner of nearby property (PC1&2).

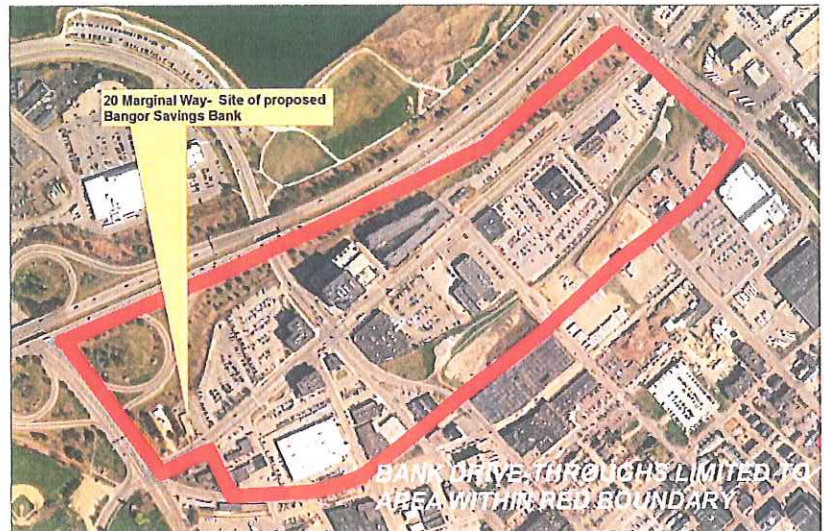
III. BACKGROUND RE ZONING

Bank drive-throughs are the only type of drive-through allowed in the B-7 zone. They are only allowed in the northern portion of the B-7 zone between Somerset/Kennebec Streets and I-295 (red outline on aerial below) and must meet the seven conditions set out in §14-296(a)1(c).

The second condition currently states:

The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet; and

The applicant is able to meet all of the other conditions in this section but has requested a text amendment to the second condition in order to develop this small lot.



(Staff plan based on 2012 GIS data)

The applicant has stated that the lot size of 17,352 sq ft prevents the construction of a building of 20,000 sq ft and thus the proposal could not meet the second condition that limits a bank drive-through to being attached or included within a building with a minimum floor area of twenty thousand (20,000) square feet. For example, a 20,000 sq ft office would require 50 parking spaces, which would require a lot area of approximately 7,000 sq ft for the building footprint plus at least 15,000 square feet for parking if provided totally on-site, for a total of 22,000 square feet. The applicant has stated that their proposal would be able to meet the other six (6) standards for a conditional use.

The text amendment is proposed to allow bank drive-throughs in buildings with a smaller floor area than 20,000 sq ft. The trade-off proposed would enable redevelopment of the car wash site, a one-story grandfathered use, to construct a three story building facing on Marginal Way, which is more in keeping with the pattern of development envisioned in the Bayside Plan.

The Planning Board members considered the following issues on this project:

- Whether there is a need for bank drive-throughs given the increase in internet banking? Bangor Savings Bank clarified at the PB Hearing that customers expect this facility and it is an important component of the development;

- What levels of traffic generation would be associated with the bank drive-through? The applicant has submitted additional traffic information that supported the case that trip levels are relatively low (Attachment D) (discussed further below);
- To what extent should the text amendment be narrowed to an exception for existing small sites and buildings of less than 20,000 sq ft in order to limit the scope for additional bank drive-throughs? Staff recommended a narrow exception (just for small lots existing as of March 9, 2005) and the Planning Board supports this approach.
- The importance of supporting the Bayside Plan goals for building height and pedestrian oriented development as priorities. The amendment includes new provisions that reinforce these goals.

IV. PROJECT DATA

Existing Zoning	B-7 Bayside
Proposed Zoning	B-7 Text amendments only
Existing Use	Car wash (not considered a drive-through)
Proposed use	Bank (1500 sq ft), bank drive-through and offices (5784 sq ft)
Parcel Size	17,352 sq ft
Building footprint	2100 sq ft
Building Floor area	7284 sq ft
Proposed parking	24

V. SUMMARY OF APPLICANT'S ASSOCIATED DEVELOPMENT PROPOSAL

The applicant is proposing to build a three story bank building of approximately 7000 sq ft, with a two lane drive-through located at the rear of the building, on the site of the existing car wash building at 20 Marginal Way. The bank drive through use requires a conditional use permit to be approved by the Planning Board, so the project would go to the Planning Board at the Site Plan review stage.

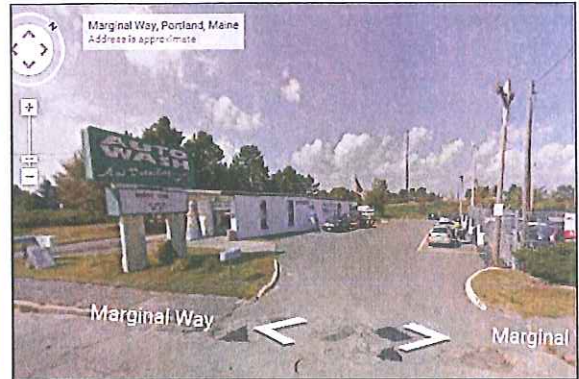
The proposed bank building and its associated site layout (Concept Plan in Plan P1 and as superimposed on an aerial in Plan P2 and renderings in Plan P4) meets, or could be revised to meet, the applicable standards at the site plan review stage along with the other conditions of the zoning ordinance.

The proposed bank building is shown below:



(from applicant; also in Plan P2. Attached; Site Plan in P1)

The existing site is a busy car wash housed in a single-story building (approx. 2500 sq ft). The owner obtained traffic generation information in mid-2014 (second part of Attachment D) that indicated that this use generates up to 120 trips/hour during the peak hour. The existing site is shown below:



VI. PROPOSED TEXT AMENDMENT TO §14-296(a)1(c) [Conditional Uses; B-7 Zone]

During the review, the Planning Board sought to clarify the amended text language while maintaining the effect of a limited exception to condition ii. The Board supported allowing bank drive-throughs in buildings of less than 20,000 square feet on small lots, but sought to limit the subdividing of lots to obtain this exception. Thus, the Board recommended that the exception be limited to those smaller lots (less than 20,000 sq. ft.) that were in existence at the time the B-7 zone was first enacted, March 9, 2005. The Board also sought to strengthen the conditional use standards to be consistent with the goals of the Bayside Plan to achieve at least 3 stories of building height and to encourage pedestrian orientation for this conditional use.

The Planning Board recommends the additional conditional use standards that require all buildings that include a bank drive-through to meet the minimum height requirements of the zone, with no minimum height exemptions as contained in the ordinance for buildings, historic buildings and additions. Secondly, the Board recommends a condition to require greater pedestrian orientation for the bank buildings that incorporate a drive-through. The amendment of the last standard of the conditional use clarifies the description of the area where bank drive-throughs would be allowed. The proposed B-7 text amendments are as follows (the **TEXT AMENDMENTS** are in **red**):

Sec.14-296. Conditional uses.

- (a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

2. Commercial use:

- a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
- b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
- c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.
 - iii. The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stores in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply.
 - iv. The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and

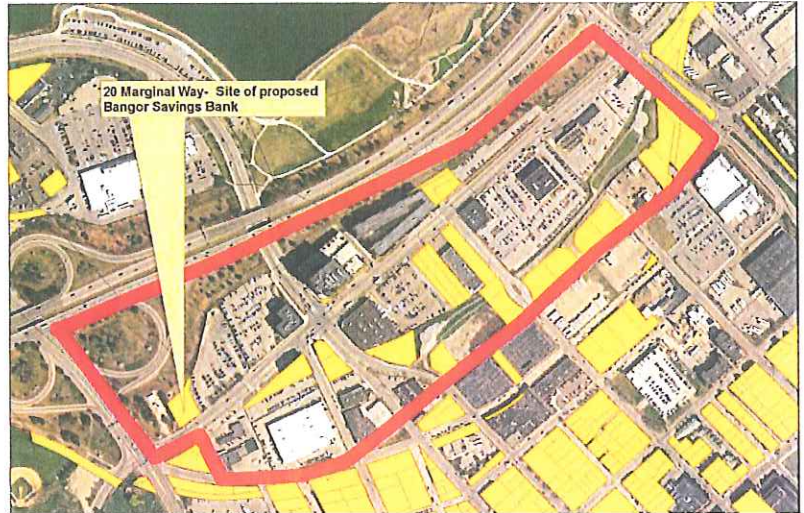
- v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
- vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
- vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
- viii. The drive-up shall be limited to two vehicle drive-up lanes; and
- ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Arterial Street/Forest Avenue.

VII. REVIEW AND ANALYSIS

A. Limits on Drive-throughs

When the B-7 Zoning Ordinance was drafted, the aim was to limit drive-through uses to banking facilities only. The intent was to limit the overall number of drive-throughs in the area and to allow only bank facilities which have a low use levels. The drive-throughs for banks were allowed under very defined circumstances, as outlined in the conditions of the conditional use that included the requirement for the 20,000 sq ft building (also see COMPREHENSIVE PLAN ANALYSIS in Section VI below).

The text amendments create an exception to the requirement for the 20,000 sq ft building and the exception would only apply to the limited number of lots in existence as of March 9, 2005 as shown in yellow within the red boundary area on the plan above (and in the submitted map/table in Attachment Ca and Cb).



Red outline is the area where bank drive-throughs are allowed.

The proposed text amendments retain the minimum building-size of 20,000 sq ft, for a drive-through, with the proposed exception that for lots of less than 20,000 sq ft and in existence at the time of enactment of the B-7 zone (March 9, 2005) a bank drive-through could be included in a building of less than 20,000 square feet.

A new condition is proposed that requires the minimum building height to apply to all structures proposed for a bank drive-through and the minimum building height exceptions for additions under 14-298 (h) (see below: (#5), historic structures (#7) and buildings 50 feet from a street line (#8)) shall not be permitted. The Board finds that a multi-story building, even if less than 20,000 sq ft of floor area, is a desirable redevelopment of properties such as the applicant's, compared with allowable alternatives for reuse or expansion of the existing one-story nonconforming building.

The current exceptions contained in the ordinance (Sec. 14-298 (h)) are as follows. By restricting drive-throughs from utilizing provisions #5, #7, and #8 (highlighted below in bold type) the reuse is ensured to comply with the appropriate multi-story requirements.

- (h) *Minimum building height: Newly constructed buildings shall have the required minimum of floors as provided by the bayside height overlay map within fifty (50) feet of any street frontage. Such floors shall be occupiable or habitable and above the average grade of the abutting street.*

This minimum floor provision shall not apply to:

1. *Accessory building components such as truck loading docks, mechanical equipment enclosures and refrigeration units.*
2. *Information kiosks and ticketing booths.*
3. *Parking garages.*

4. *Public transportation facilities.*
5. *Additions to buildings existing as of (March 9, 2005) provided that the cumulative additions since (March 9, 2005) does not exceed fifty percent (50%) of the ground floor building footprint on (March 9, 2005) except that such restriction shall not apply to those portions of the building addition(s) that are constructed closer to the street line than the building footprint existing as of (March 9, 2005).*
6. *Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures.*
7. *Additions to and/or relocation of designated historic structures or structures determined by the historic preservation committee to be eligible for such designation.*
8. *Portions of buildings more than fifty (50) feet from the street line.*

B. Adding text re pedestrian orientation:

The proposed text amendment adds in a new condition that addresses the Board's desire to strengthen the standard for better pedestrian orientation. This conditional use standard would apply regardless of the size of the building associated with the bank drive-through,

C. Traffic implications:

The Planning Board requested clarification as to how the proposed Bangor Savings Bank would fit in to this part of Bayside. The applicant's Traffic Engineer provided a Memo in Attachment D covering trip generation and other issues such as the closure of the curb cuts and the adequacy of the queuing area. Although this includes a peak hour trip generation of 140 trips for the bank and offices, it is understood that the bank and bank drive-through lanes account for approximately half of these trips, with the offices accounting for the remainder.

The submitted data regarding the existing car wash (Attachment D, second part- 2014 memo from Sebago Technics) suggest it generates up to 120 trips in the peak hour.

The 2014 Memo from Sebago Technics (second part of Attachment D) also includes data for peak hour trip generation for various drive through uses. Together with research by staff (with assistance from Tom Errico, the City's Traffic Engineering Reviewer) the following are indicative peak hour levels associated with various drive-throughs based on the ITE Trip Generation Manual/MDOT data:

Use	Range of likely peak hour trips
Dunkin Donuts with drive-through	204-276 (AM)
Generic coffee shop with drive-through	49-92
Bank with drive-through (based on sq ft floor area as 2500 sq ft*)	12-67
Bank with 2 drive-through lanes (based on a per drive-through lane data)	44-60
Bank without a drive-through ("walk-in" bank)	The national ITE data is based on 3 California samples ("walk in" banks are rare) with data that does not agree & not considered reliable as such a small sample. The lowest sample is about half of the above for banks, but in Maine climate there may be fewer walk-ins and more customers would drive.

*Note that the proposed Bangor Savings Bank is likely to be 2100 sq ft

D. Status of the current Bangor Savings Bank proposals

It should be noted that if the City Council adopts the proposed Zoning Text amendments, the Concept Plans (Plan P1 and Plan P2) and renderings (Plan P4) would be subject to Conditional Use and Site Plan review before the Planning Board. Also, these submitted graphics are not binding on the applicant and a different proposal could come forward.

Any proposed building would need to meet the Site Plan ordinance requirements and B-7 Design Standards in addition to the bank drive-through conditions.. A preliminary staff review of the applicant's specific proposals (in Plans P1, P2 and P4) indicates that the project is along the right lines and no major issues are anticipated to arise during the Site Plan review.

VIII. COMPREHENSIVE PLAN ANALYSIS

The Planning Board found the proposed text amendments to be consistent with the Comprehensive Plan. . The Comprehensive Plan includes two policy documents that are relevant:

- A. The COMMUNITY COMMERCIAL POLICIES AND LAND USE PLAN – September 1987-1988, which was adopted as part of the Comprehensive Plan and has the following goals:

Development Goals

- Accommodate the City's commercial activity within a range of functionally and physically defined commercial centers.
- Promote preservation and revitalization of its existing commercial centers and maintain a scale within them that is compatible and integrated with other land use.

- B. A NEW VISION FOR BAYSIDE (BAYSIDE PLAN) (December, 1999) which was adopted as part of the Comprehensive Plan. It is the underlying land use policy in Bayside and envisions Bayside as a dense urban mixed use district as an extension of the downtown. Several of the Development Principles of the Bayside Plan are listed below along with key words or phrases of the principle.

- **Urban Gateway:** "Bayside will be an attractive urban gateway and extension of the downtown business district"... "this district will create a new front face of the City, and present the character of Portland which will encourage people to stop, visit"... "compact blend of uses".
- **Economic and Employment Opportunities:** "significant economic and market opportunity to be planned and managed to create the best value for development and quality of life improvements"... "Bayside represents prime real estate development prospect to expand the central business district".
- **A Walkable District:** "Bayside will contain housing, work place, services, transportation, recreation, dining and shopping, all within comfortable distance of each other and the downtown"... "sidewalks, bicycle and pedestrian trail linkages will connect these uses, designed for full and maximum accessibility".
- **Transit-oriented Development:** "Mixed use, compact and intensive land development, and quick and convenient transit service combine to make Bayside a neighborhood that has genuine mobility choice. This model for the peninsula and beyond will be designed from the ground up, free from dependence upon the automobile".

B-7 Zone: Likewise the purpose section of the B-7 zone utilizes includes such phrases as "distinctly urban form through dense development"; "emphasizes a quality pedestrian experience" and "utilization of transportation, other than automobile is strongly encouraged".

IX. PLANNING BOARD RECOMMENDATION

The present treatment of regulating drive-up facilities in the B-7 zone is reflective of the underlying land use policies outlined above. The B-7 zoning language was structured to encourage a dense mixed use development pattern advocated in the Bayside Plan. To achieve the goal of a dense urban pattern, the B-7 zoning text includes a number of measures to encourage a certain threshold or scale of development such as minimum building height, placement of buildings near the street, emphasizing building mass over surface parking and no limit on building lot coverage or housing density.

During the initial drafting of the B-7 zoning text, all drive-ups were prohibited because it was felt such uses did not support an urban development pattern nor contribute toward a quality pedestrian experience. Prior to enactment the text was revised to allow drive-ups as a conditional use, but only for banks. This distinction was made because bank buildings are generally more substantial in building mass, floor area and height in contrast to other drive-through uses. The traffic volume generated by a drive-up bank teller is substantially less than a fast food restaurant.

It was felt bank buildings of sufficient size could make a positive contribution toward redeveloping vacant or underutilized properties in Bayside. As a safeguard, bank drive-ups were listed as a conditional use along with certain standards such as floor area to assure a minimum scale of development. The smaller lots do not have the capacity to support the current 20,000 square foot minimum building size, but a new three story building of less than 20,000 square feet will contribute more to the development of the district than would result from reuse and expansion of the one-story non-conforming structure, as might likely be the case without this amendment.

The Planning Board held a public hearing on April 14, 2015 and voted 5-0 (Boepple and O'Brien absent) that the proposed zoning text amendment to §14-296(a)1(c) (Conditional uses, B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the following amendment to the City Council.

The specific motion read:

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the public hearing on April 14, 2015 for application #2015-015 (related to 20 Marginal Way proposals) and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to §14-296(a)1(c). (Conditional uses. (B-7 zone) is consistent with Portland's Comprehensive Plan and recommends adoption of the following amendment to the City Council.

Sec.14-296. Conditional uses.

- (a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

3. Commercial use:

- a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
- b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
- c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.
 - iii. The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four stories in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply.
 - iv. The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and
 - v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
 - vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
 - vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
 - viii. The drive-up shall be limited to two vehicle drive-up lanes; and
 - ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Arterial Street/Forest Avenue.

ATTACHMENTS:

Report Attachments

(None)

Public Comments

PC1. P Coupe
PC2 P Quesada

Applicant's Submittal

- A. Application
- B. Applicants original text amendment
- C. a. B-7 lots less than 20K (map); b. B-7 lots less than 20k (table)
- D. Traffic Memos from Gorrill Palmer and Sebago Technics

Plans

- P1. Concept Plan for Bangor Savings Bank proposal
- P2. Bank concept on aerial
- P3. Previous renderings
- P4. Revised renderings of development proposal

From: Phil Coupe <phil@revisionenergy.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 3/19/2015 4:19 PM
Subject: Letter in support of Bangor Savings Bank branch on Marginal Way

Stuart O'Brien, Chairman
City of Portland Planning Board
March 19, 2015

Dear Mr. O'Brien,

As a Portland businessman and local resident, I am writing in support of Bangor Savings Bank's application to build a new bank with a drive-through facility near the corner of Marginal Way and Forest Avenue.

If approved, this will be the first bank in Portland to be built with a solar electric system to generate clean, renewable power for the building. The solar electric system will reduce the need to burn fossil fuels to power the building, thereby reducing the bank's annual carbon pollution.

This highly visible investment in renewable energy will have many ancillary benefits beyond reducing fuel consumption and pollution; most importantly, it will send the message to other business owners, building owners and residents in the area that solar electric systems deliver a strong economic and environmental return on investment. Most people view banks as fairly conservative organizations averse to taking risks on unproven technologies. Thus, if they see one of Maine's leading financial institutions investing in solar, people will conclude that the time to invest in solar energy has finally arrived.

After 10 years in the solar energy industry, I know firsthand the incredibly powerful impact that a solar installation can have; a recent nationwide study of the solar industry found that the single most important factor driving consumers' decision to invest in solar is the proximity of an existing solar project.

I hope you will see the practical benefits of approving Bangor Savings' application, and the broad community benefits of reducing fossil fuel consumption, reducing carbon pollution and accelerating the necessary societal transition to sustainable, renewable sources of energy.

Thank you for your time and consideration.

Sincerely,

--

Phil Coupe
Co-founder
ReVision Energy
207-232-6595

Fore River Company 5 Milk Street P.O. Box 7525 Portland, ME 04112 (207) 772-6404

April 8, 2015

Ms. Jean Fraser
Portland Planning Staff
Portland City Hall
389 Congress Street
Portland, ME 04101

re: Bangor Savings /Car Wash on Marginal Way

Dear Ms. Fraser,

I understand that the Planning Board will be considering a re-do of the car wash site on Marginal Way into a 3 story bank office for Bangor Savings. I am writing on behalf of several nearby Marginal Way properties owned by us, as follows:

- 87 Marginal Way LLC (Trader Joe)
- Back Cove Company; 127 Marginal Way (Walgreens and others)
- Five Liver Company; 145 Marginal Way (Planet Fitness)
- 161 Marginal Way LLC (DHHS).

We think the proposed re-development is a good change for our neighborhood and is a clever design for what we have always thought of as a tiny, difficult lot. We think it nicely follows your design goals for the neighborhood –built on the front lot line, 3 stories (who would have thought it possible), durable materials, parking and drive in buried at the rear. We understand that the building volume is slightly less than your minimum threshold, because of the limitations of the site size, and we encourage you to give a variance in this case, in recognition that this is likely the best / biggest that this site will accommodate. And, the proposal does a nice job of presenting its long façade to the street, creating a sense of a building with more mass than is in fact the case—perceived mass in keeping with the pattern on Marginal Way.

We therefore respectfully suggest that the Planning Board allow this proposed project to proceed.

Sincerely,



Peter W. Quesada

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

To request a pre-application meeting please fill out the form below with as much detail as possible. Two 30 minute meetings will be scheduled each Wednesday from 12:00-1:00 p.m. in Room 209, 2nd Floor of City Hall. These meetings are by appointment only and will be scheduled upon receipt of this request.

CONTACT INFORMATION			
Name:	David Latulippe	Phone:	207-865-4323
E-Mail Address:	ddlatulip@aol.com		
PROPOSED PROJECT INFORMATION			
Chart, Block, Lot (s)	Map 113, Block A, Lot 25		
Need help? Go to Property Lookup			
Address	10 Marginal Way		
Is the project located in the Historic District?	No	Does the project involve food?	No
What is the Current Use of this property?	Car Wash		
What is the Proposed Use of this property?	Bank with Drive thru and offices		
Is a zone change being requested?	Yes	What is the Lot Size?	0.35
New Building or Addition Sq. Ft.	7,300	New impervious surface area	0
Please provide a brief description of the proposed project. (200 character limit) Replace the current car wash with a 3 story bank/office building and a single ^{double} drive thru. The Bank shall include a walk-up ATM, solar panels on the roof and 2 electric vehicle charging stations.			

Submit this form and attach any additional electronic drawings or supporting documentation to your email.

Submit Form Now

If you have any questions e-mail Desiree Kelly at dmk@portlandmaine.gov.

FOR INTERNAL USE ONLY					
Meeting set for:					
Public Services		Historic Preservation		Planning	
Fire		Inspections		Traffic	
Health & Human Services		Parking		Zoning	
Internal Comments:					



Zoning Map/Text Amendment Application Portland, Maine

Planning and Urban Development Department
Planning Division and Planning Board

Portland's Planning and Urban Development Department coordinates the development review process for requests for zoning map amendments, zoning text amendments and contract or conditional rezoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. The **Application Process for a Zone Change** is summarized below under Section I and the associated costs for reviews are found under Section II, **Development Review Fees, Public Notices and Guarantees**, and are listed on the fee structure sheet.

I. APPLICATION SUBMITTAL

Pre-application meeting

Prior to submitting a zoning amendment application, the Planning Division recommends that the applicant or the designated representative schedule a pre-application meeting to discuss the review process and applicable standards for a proposal. Please contact Barbara Barhydt, Development Review Services Manager at 874-8699 to schedule a meeting.

Zoning Amendment Application

All plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.

- Submit one (1) complete paper set of the zoning amendment application with a concept plan and a written narrative. 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. Applications may be submitted between 8 a.m. and 4:30 p.m. Monday through Friday at the Planning Division on the 4th floor of City Hall, 389 Congress Street, Portland.
- All applications are processed in the order in which they are received.
- In order for the Planning Division's Administrative Staff to accept and log-in an application, the application form must be complete, it shall be signed by the applicant's or the applicant's designated representative, and all applicable fees paid at the time of submittal.
- The Land Use Code is available on the City's website at www.portlandmaine.gov.
- If the application is found to be incomplete, the applicant will be informed in writing of the required plans and materials.

II. DEVELOPMENT REVIEW FEES, PUBLIC NOTICES AND GUARANTEES

Zoning Application Fees

- Each application must be submitted with the applicable fees as listed in the fee structure on page 4. The fees cover general administrative processing costs.
- Application fees may be paid in cash or by check (addressed to the City of Portland).
- An application will not be processed without the required application fees.

Fee for City Review Services

- The City of Portland charges fees for service to cover the cost of reviews by Planning and Legal staff members. The charges will be billed at an hourly rate and will be invoiced monthly for reimbursement.
- Current billing rates: Planning services, \$40.00/ hour and Legal services: \$75.00/hour.

Fee for Third Party Review

- Portland contracts with local engineering firms to conduct engineering reviews of development proposals. The direct cost of all engineering services or third-party consultant reviews, such as the civil engineering review of stormwater management plans, traffic impact reviews and such other reviews as required under the City's Ordinances, will be included in the monthly invoices for reimbursement.

Public Notices

- Public notices must be sent to property owners within 500 for all proposals at the time an application is received. Zoning map amendments for Industrial zones require notices to be sent to property owners within 1,000 feet.
- In advance of a Planning Board workshop or public hearing, public notices for projects must be sent to property owners and are posted in a legal ad in the Portland Press Herald and on the City's web site.
- In addition, zoning map amendments, text amendments and conditional rezoning agreements require individual notices to be posted in the Portland Press Herald.
- The Planning Division mails public notices and posts notices in the newspaper. The applicant will be billed for actual or apportioned costs for advertising and sending mailed notices.
- The applicant is required to hold a neighborhood meeting under the City's regulations for zone change requests. The mailing labels must be purchased from the Planning Division for the neighborhood meeting invitation. A request for labels requires a minimum of two business days to generate the mailing labels and a charge of \$1.00 per sheet will be payable upon receipt of the labels.

Third Party Review Fees

- Engineer and Third Party Review Fees - The fees are assessed by the Consulting Engineers and Third Party Reviewers.
- Inspection Fee - This fee is 2% of the Performance Guarantee or as assessed by Planning or Public Works Engineer with \$300.00 being the minimum.

Noticing/Advertisements Planning Board/City Council Review

- Legal Advertisement: Percent of total bill
- Notices: .75 cents each
(notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council)

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8721 or 874-8719

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

PROJECT ADDRESS: 10 Marginal Way

CHART/BLOCK/LOT: 113/A/25

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

3-story Bank/office building w/ a drive
throughs on a small parcel of land. The conditional
use requires a 20,000 s.f building which is not
physically possible
on this small parcel.

CONTACT INFORMATION:

Applicant's Contact for electronic plans Name: <u>David Latulippe</u> e-mail Address: <u>ddl@tulip@aol.com</u> work # <u>207-865-4323</u>	
Applicant – must be owner, Lessee or Buyer Name: <u>Susan Snowden</u> Business Name, if applicable: <u>Bangor Savings</u> Address: <u>99 Franklin St Bangor</u> City/State: <u>Bangor ME</u> Zip Code: <u>04401</u>	Applicant Contact Information Work # <u>207-541-2715</u> Home# Cell # Fax# e-mail: <u>susan.snowden@bangor.com</u>
Owner – (if different from Applicant) Name: <u>Northern Pride Auto Wash</u> Address: <u>PO Box 2147</u> City/State: <u>So. Portland ME</u> Zip Code: <u>04116</u>	Owner Contact Information Work # <u>207-776-5565</u> Home# Cell # Fax# e-mail: <u>wdeseng@maine.na.com</u>
Agent/ Representative Name: <u>David Latulippe</u> Address: <u>35 Primrose Ln</u> City/State: <u>Freeport, ME</u> Zip Code: <u>04032</u>	Agent/Representative Contact information Work # <u>207-865-4323</u> Cell # <u>207-246-1074</u> e-mail: <u>ddl@tulip@aol.com</u>
Billing Information Name: <u>Wendy Dunnah</u> Business Name: <u>Bangor Savings Bank</u> Address: <u>99 Franklin St</u> City/State: <u>Bangor ME</u> Zip Code: <u>04401</u>	Billing Information Work # Cell # Fax# e-mail: <u>wendy.dunnah@bangor.com</u>
Engineer Name: <u>AL Palmer</u> Address: <u>Gonnelli-Palmer</u> City/State: <u>Knox, ME</u> Zip Code:	Engineer Contact Information Work # <u>207-657-6910</u> Cell # <u>207-415-5903</u> Fax# e-mail: <u>apalmer@gonnelli-palmer.com</u>

Surveyor Name: Address: City/State : Zip Code:	Surveyor Contact Information Work # Cell # Fax# e-mail:
Architect Name: Address: City/State : Zip Code:	Architect Contact Information Work # Cell # Fax# e-mail:
Attorney Name: Address: City/State : Zip Code:	Attorney Contact Information Work # Cell # Fax# e-mail:

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

Letter of intent to enter into a long term ground lease subject to a zoning text amendment and site plan approvals.

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:

Car wash

Current Zoning Designation(s):

B7- Mixed Development District

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.

Replace the current car wash with a 3 story bank/office building and a ~~small~~ drive through lanes. The Bank shall include a walk-up ATM, solar panels on the roof and 2 electric vehicle charging stations.

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 FEE:

Check the type of zoning review that applies. Payment may be made in cash or check payable to the City of Portland.

Zoning Map Amendment ___ \$2,000.00 (from ___ zone to ___ zone)	Fees Paid (office use) ___	The City invoices separately for the following: • Notices (\$.75 each) (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) Third party review is assessed separately.
Zoning Text Amendment ✓ \$2,000.00 (to Section 14- <u>296</u>) (For a zoning text amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example) and language to be added is depicted as underline (example))	___	
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.)	___	

Signature of Applicant: 	Date: 1-28-15
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Further Information

In the event of withdrawal of the zoning amendment application by the applicant, a refund of two-thirds of the amount of the zone change fee will be made to the applicant as long as the request is submitted to the Planning Division prior to the advertisement being submitted to the news paper.

- a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
- b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
- c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. *For parcels of 20,000 sq. ft. or greater in area,* The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet; and
 - iii. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
 - iv. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
 - v. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
 - vi. The drive-up shall be limited to two vehicle drive-up lanes; and
 - vii. The location of any drive-up shall be limited to the geographic area between Somerset Street/I-295/Franklin Arterial/Forest Avenue.
- d. The expansion of automotive repair facilities existing as of March 9, 2005, but in no case shall such expansion over the life of the building exceed

८३



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B7 Parcels Less Than 20,000 s.f.
Portland, Maine

Property	Map/Lot	Address	Owner	Size	Use	Business	Comments
1	113-A-25	20 Marginal Way	Northern Pride Auto Wash	15285.2	Car Wash	Northern Pride Car Wash	Subject Site
A	34-C-1	49 Marginal Way	Bayside Ventures, LLC	18,740	Office & Business	Turner Barker	Multi- Story building w/ an unused drive-thru
B	34-K-2-3	71 Marginal Way	71 Marginal Way, LLC	14,370	Retail & Personal serv	Gorham Savings Bank	Bank w/ a drive-thru
C	34-I-1-2	125 Kennebec St	Portland Architectural Salvage	15,590	Commercial Condos	Architectural Salvage	Multi-Story building
D	442-A-6	140 Marginal Way	Tomaks, LLC	6,011	Multi-Use Commercial	Miss Portland Diner	Too Small
E	24-C-2	131 Wilmont St	Carbo Company	14,732	Vacant Land	Vacant Land	Development Site
	24-C-6	135 Wilmont St	Somerset Development	15,041	Vacant Land	Vacant Land	
	24-C-23	5 Somerset St	Somerset Development	12,140	Vacant Land	Vacant Land	
F	25-D-6	131 Lancaster St	Perry Iron & Metal	3,942	Perry Iron	Parking Lot	
	25-D-7	137 Lancaster St	Perry Iron & Metal	16,501	Perry Iron	Parking Lot	
	25-D-8	145 Lancaster St	Perry Iron & Metal	11,983	Perry Iron	Parking Lot	
G	25-D-10	149 Lancaster St	Bayside IV, LLC	8,512	Apartments	Parking Lot	Supporting Apartment Complex
	25-D-9	103 Chestnut St	Bayside IV, LLC	6,730	Apartments	Parking Lot	
H	33-O-1	114 Preble St	114 Preble Block, LLC	3,049	Retail & Personal serv	G.R Dimillos	Tri-angular Shape
	33-O-4	120 Preble St	114 Preble Block, LLC	1,782	Retail & Personal serv	G.R Dimillos	
	33-O-2	106 Preble St	114 Preble Block, LLC	7,331	Retail & Personal serv	G.R Dimillos	
I	34-H-1	138 Kennebec St	BOPO LLC	15,172	Multi-Use Commercial	Parking Lot	Supporting Commercial Use
J	34-F-8	41 Brattle St	Roswell Furman	2,274	Single Family	Single Family	
	34-F-4	51 Brattle St	Roswell Furman	1,498	Single Family	Single Family	
	34-F-3	53 Brattle St	Roswell Furman	1,220	Single Family	Single Family	
	34-F-5-7-9	78 Parris St	New Systems Realty, LLC	15,198	Retail & Personal serv	Multi-Tenant	
	34-F-6	47 Brattle St	Virginia Doyle	1,851	Single Family	Single Family	



Att. D

PO Box 1237, 15 Shaker Road
Gray, Maine 04039
207.657.6910

April 3, 2015

Mr. David Latulippe
CJ Developers, Inc.
35 Primrose Lane
Freeport, Maine 04032

Subject: Response to Planning Board comments
Proposed Bangor Savings Bank
Marginal Way, Portland, Maine

Dear David,

At the Portland planning board workshop meeting on Tuesday, March 24th, it was requested that GP provide our opinion on how the proposed Bangor Savings Bank fits into the area from a traffic point of view.

Project Background

The site is located adjacent to the northeast corner of the intersection of Marginal Way and Forest Avenue and is currently occupied by Northern Pride Car Wash and Detailing Center. The Car Wash is located approximately 250' from the above referenced intersection. The existing easterly driveway for the car wash is located at the beginning of a two way left turn lane within Marginal Way. The available stacking extending towards Forest Avenue, within the two way left turn lane at the existing easterly driveway, is approximately 50' or two vehicles. The existing westerly driveway (an exit) is approximately 160' from the intersection of Marginal Way and Forest Avenue.

Bangor Savings Bank intends to demolish the existing building and construct an approximately 2,100 sf branch with 2 drive-thru lanes. The structure would also include two additional stories of approximately 2,500 sf each for use as office space. Certain districts, including but not limited to Bayside, lie at the perimeter of the established downtown and contain significant redevelopment opportunities. The B-7 zone encourages these districts to acquire a distinctly urban form through dense development featuring a mix of uses such as housing, retail, offices, research and development, and artisan studios that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. Office space is a permitted use and banks with drive-thrus are a conditional use within the B-7 Zone.

Consistency with Other Uses in the Area from a Traffic Point of View

GP has reviewed the proposed project and it is our opinion it is consistent and complimentary with the other uses in the area from a traffic point of view after considering the following factors.

Trip Generation

Our office has had the opportunity to work on many projects in the vicinity of the proposed site over the years including the Gorham Savings Bank retail branch at the corner of Preble and Marginal, the Gorham Savings Bank offices at the corner of Hanover and Marginal, and the AAA and Intermed buildings at the corner of Marginal Way and Preble Street Extension, and the student housing project on Marginal Way. With the exception of the



Mr. David Latulippe
March 30, 2014
Page 2 of 2

Gorham Savings Bank retail building, each of these buildings are multistory office buildings with uses similar to that proposed by Bangor Savings Bank. The proposed Bangor Savings Bank and offices are forecast to generate approximately 140 peak hour trip ends which is relatively consistent with the PM peak hour of the student housing project of 131 PM peak hour trip ends but below the 256 PM peak hour trips ends associated with the Intermed office building.

Drive Thru Traffic

There are two proposed drive-thru lanes in the rear of the building to serve the retail portion of Bangor Savings Bank. This is similar to the two drive-thru positions to the rear of the Gorham Savings Bank building (as viewed from Marginal Way). The trip generation is expected to be similar for both banks and significantly less than the existing car wash.

Pedestrian accommodations

A key to the projects we have been involved with in the vicinity of the proposed Bangor Savings site has been the emphasis on pedestrian circulation and safety. Those buildings have been brought to the front of the lot to facilitate pedestrian access to the front of the buildings and the number of curb cuts serving the sites limited to enhance pedestrian safety. The proposed Bangor Savings Bank building will also be close to the road, fronted by a sidewalk to facilitate convenient pedestrian access to the building, and the number of driveways reduced to one.

Furthermore, the existing car wash has two curb cuts on Marginal Way. The proposed Bangor Savings Bank project will eliminate one of the existing curb cuts which improves pedestrian safety.

In summary, it is our opinion that the proposed Bangor Savings Bank building will be consistent with the other uses in the area from a pedestrian and vehicular circulation point of view.

Please contact me with any questions you may have.

Sincerely,

Gorrill Palmer

Thomas L. Gorrill, PE, PTOE

Copy: Mr. Jason Donovan, Ms. Wendy Durrah (Bangor Savings Bank)

TLD/JN 2970/Corr out/Latulip 4-3-15.doc



CIVIL ENGINEERING • SURVEYING • LANDSCAPE ARCHITECTURE

Memorandum

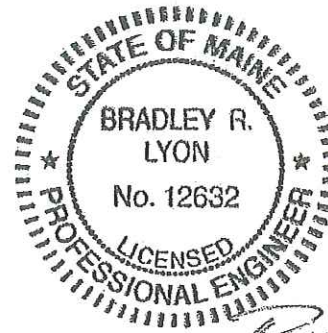
To: William DeSena

From: Bradley R. Lyon, P.E., PTOE,
Senior Transportation Engineer

Job #: 14313

Date: August 29, 2014

Subject: Trip Generation Calculations for
20 Marginal Way, Portland, Maine



Bradley R. Lyon
8/29/14

The purpose of this memorandum is to calculate what the peak hour trip generation is on 20 Marginal Way in Portland, Maine for the existing 2,500 sf "Northern Pride" automated car wash and compare it to the following three proposed land uses:

- 2,500 sf Dunkin Donuts w/Drive Thru
- 2,500 sf Generic Coffee Shop w/Drive Thru
- 2,500 sf Drive-In Bank w/1 Drive Thru Lane

Existing 2,500 sf "Northern Pride" Automated Car Wash

The latest edition, 8th, of the Institute of Transportation Engineers (ITE) Trip Generation Manual was referenced using Land Use Code 948, Automated Car Wash in an attempt to estimate peak hour traffic. Analysis of the land use found that only 2 observations were available, therefore existing sales data was requested. Existing hourly sales data was provided to us for weekdays in January, April and December of 2013 and a Sunday in April of 2013. The results, as well as the calculated weekday average are as follows:

Table 1
“Northern Pride Auto Wash” Sales Data

Time Period	Wed., Dec. 11, 2013	Tues., Jan. 8, 2013	Thurs., Jan. 10, 2013	Tues., April 20, 2013	Sat., Feb. 23, 2013	Sun., April 7, 2013	Weekday Average
07:30 AM – 08:00 AM	18	22	20	20	24	19	20
08:00 AM – 09:00 AM	49	36	36	57	43	43	45
09:00 AM – 10:00 AM	71	37	46	56	54	42	53
10:00 AM – 11:00 AM	52	46	51	55	43	46	51
11:00 AM – 12:00 PM	48	51	57	51	42	52	52
12:00 PM – 1:00 PM	69	57	59	51	58	56	59
1:00 PM – 2:00 PM	60	51	54	46	43	56	53
2:00 PM – 3:00 PM	45	55	58	43	52	43	50
3:00 PM – 4:00 PM	61	58	64	44	47	53	57
4:00 PM – 5:00 PM	49	52	54	52	54	60	52
5:00 PM – 6:00 PM	34	60	45	44	47	45	46

Given this data, it was determined that the existing weekday AM Peak Hour was from 9:00 AM to 10:00 AM, generating **106 trips** (53 sales * 2 (entering and exiting vehicles)) and the existing weekday PM Peak Hour was from 12:00 PM to 1:00 PM, generating **118 trips** (weekday average of 59 sales * 2 (entering and exiting vehicles)). The Saturday Peak Hour occurred from 12:00 PM to 1:00 PM on February 23, 2013 with **116 trips** (58 sales * 2 (entering and exiting vehicles)). The Sunday Peak Hour occurred from 4:00 PM to 5:00 PM on April 7th, 2013 with **120 trips** (60 sales * 2 (entering and exiting vehicles)). A summary of this can be found in Table 2 below:

Table 2
Proposed Trip Generation based on Sales Data
“Northern Pride Auto Wash”

	Total Trips
Weekday AM Peak Hour of Generator	106
Weekday PM Peak Hour of Generator	118
Saturday Peak Hour of Generator	116
Sunday Peak Hour of Generator	120

Proposed 2,500 sf Dunkin Donuts w/Drive Thru

Dunkin Donuts stores are unique in their trip generating characteristics and as such a special study was conducted in 2005 by Gorrill - Palmer Engineers (G-P) to better define these relationships, since MaineDOT determined that standard ITE data did not seem to provide reasonable estimates. The G-P Study outlined three means of more accurately forecasting trip generation by these facilities based on their location and the traffic volumes in the vicinity of the sites. We used these methodologies to arrive at the following results, which have been averaged to determine the AM Peak Hour of the generator. It should be noted that the Annual Average Daily Traffic in front of the site was recorded by MaineDOT in 2010 to be 8,050 vehicles per day. In addition, the AM peak hour is generally considered to be 8% of the average daily traffic, which in this case would be 644 vehicles.

Trip Gen by Store Size	=	$0.0536 \times (2,500 \text{ S.F.}) + 142.75$	=	276.75 trips
Trip Gen by AADT	=	$0.0081 \times (8,050 \text{ AADT}) + 139.36$	=	204.57 trips
Trip Gen by AM Peak Hr	=	$0.1061 \times (644 \text{ vehicles}) + 144.49$	=	212.82 trips
Average			=	231 trips

The above figure will place this Project in the “over 200” Traffic Movement Permit category. However, Dunkin Donuts stores have only a 15% Primary (or new) Trip production rate, (i.e. most patrons are already on the roadway network and stop in on their way by). Very few are new trips to the roadway. In this case the 231 Dunkin Donuts trips will only represent about 35 new trips or approximately 18 new trips in and 17 new trips out of the site. Given the presence of an existing shared left turn lane on Marginal Way, offsite improvements should be minimal but the extent of improvements wouldn’t be able to be determined until a “Scoping Meeting” is held with MaineDOT. The application fees to the state for permit of this level are \$2,000 plus our engineering costs to produce the application and perform a formal traffic study of the area.

Proposed 2,500 sf Generic Coffee Shop w/Drive Thru

Similar to the trip generation estimate for the existing "Northern Pride" automated car wash, the proposed 2,500 sf Generic Coffee Shop w/Drive Thru was estimated using the 8th Edition of the ITE Trip Generation Manual. Land Use Code 940 Bread/Donut/Bagel Shop with Drive-Through Window was used. Data was only available for the peak hour of adjacent street traffic, one hour between 7 and 9 AM and one hour between 4 and 6 PM. The results are as follows:

Table 3
Proposed Trip Generation by Square Feet
Land Use Code 940, Bread/Donut/Bagel Shop with Drive-Through Window

By Square Feet	Square Feet	Rate (Trips / 1,000 sf)	Total Trips
Weekday Peak Hour of Adjacent Street Traffic, One Hour Between 7 and 9 AM	2,500	36.92	92
Weekday Peak Hour of Adjacent Street Traffic, One Hour Between 4 and 6 PM	2,500	19.56	49

Given this information a Traffic Movement Permit would not be required from the MaineDOT due to the fact that the development would generate less than 100 peak hour trips.

Proposed 2,500 sf Drive-In Bank w/1 Drive Thru Lane

Similar to the trip generation estimate for the existing "Northern Pride" automated car wash and the Generic Coffee Shop, the proposed 2,500 sf Drive-In Bank w/1 Drive Thru Lane was estimated using the 8th Edition of the ITE Trip Generation Manual. Land Use Code 912 Drive-in Bank was used by using rates per 1,000 square feet of gross floor area averaged with rates by drive-in lanes. The results are as follows:

Table 4
Proposed Trip Generation by Square Feet
Land Use Code 912 Drive-in Bank

By Square Feet	Square Feet	Rate (Trips / 1,000 sf)	Total Trips
Weekday AM Peak Hour of Generator	2,500	17.31	43
Weekday PM Peak Hour of Generator	2,500	26.69	67
Saturday Peak Hour of Generator	2,500	26.53	66
Sunday Peak Hour of Generator	2,500	4.78	12

Table 5
Proposed Trip Generation by Drive-In Lane
Land Use Code 912 Drive-in Bank

By Drive-In Lane	Drive-In Lanes	Rate (Trips / Drive-In Lane)	Total Trips
Weekday AM Peak Hour of Generator	1	21.64	22
Weekday PM Peak Hour of Generator	1	29.05	29
Saturday Peak Hour of Generator	1	29.88	30
Sunday Peak Hour of Generator	1	N/A	N/A

Table 6
Proposed Trip Generation Total Average
Land Use Code 912 Drive-in Bank

By Drive-In Lane	Trips by Square Foot	Trips by Drive-In Lane	Average Trips
Weekday AM Peak Hour of Generator	43	22	33
Weekday PM Peak Hour of Generator	67	29	48
Saturday Peak Hour of Generator	66	30	48
Sunday Peak Hour of Generator	12	N/A	12

Given this information a Traffic Movement Permit would not be required from the MaineDOT due to the fact that the development would generate less than 100 peak hour trips.

Conclusion

In conclusion, the trip generation for each of the uses is as follows:

Table 7
Overall Trip Generation Comparison

	Existing 2,500 sf Automated Car Wash	2,500 sf Dunkin Donuts	2,500 sf Generic Coffee Shop	2,500 sf Drive- In Bank
AM Peak Hour of Generator	106	231	92	33
PM Peak Hour of Generator	118	N/A	49	48
Saturday Peak Hour of Generator	116	N/A	N/A	48
Sunday Peak Hour of Generator	120	N/A	N/A	12
Traffic Movement Permit Required?	N/A	Yes (200+ Trips)	No	No

Given the above information, it is our opinion that a Traffic Movement Permit would only be required for the Dunkin Donuts which would generate 231 AM Peak Hour trips, putting it into the 200+ Traffic Movement Permit category. The remaining two uses all generate below 100 peak hour trips and therefore would not require a Traffic Movement Permit.

From: David Latulippe <ddlatulip@aol.com>
To: <JF@portlandmaine.gov>
Date: 4/8/2015 4:26 PM
Subject: Fwd: Traffic Generation for 20 Marginal Way

Jean,

Below is an email from Tom Gorrill which basically says that there is little to no traffic data on banks without drive throughs. This kind of validates Bangor's position that a bank without an drive through is not currently a viable business option. Hopefully, sometime in future our society will become less car centric.

David

-----Original Message-----

From: Thomas Gorrill <TGorrill@gorrillpalmer.com>
To: David Latulippe <ddlatulip@aol.com>
Sent: Wed, Apr 8, 2015 4:16 pm
Subject: RE: Traffic Generation for 20 Marginal Way

David:

There are only 3 studies for walk-in banks in the latest edition of the ITE Trip Generation Manual all of which were done in California. ITE has a disclaimer to use the limited data cautiously since it is a very small sample. ITE gets its data by compiling information sent in by traffic engineers across the country. Since banks without drive-thru lanes are fairly rare except within an downtown urban block, there is no reliable data available.

tom

SPACE AND BULK STANDARDS		
D7 ZONE	REQUIRED	PROVIDED
MIN. LOT SIZE	NONE	17,092 S.F.
MIN. FRONTAGE	NONE	104.58'
YARD DIMENSIONS		
FRONT SIDE	NONE	1'
REAR SIDE	NONE	2'
	NONE	3'
MAX. BUILDING SETBACK FROM STREET LINE FRONT	10' **	2.5'
MAX. LOT COVERAGE	100%	=
MAX. BUILDING HEIGHT	100'	APPROX. 3
MIN. BUILDING HEIGHT	3 STORY *	3

* BASED ON INTERMEDIATE URBAN HEIGHT DISTRICT

** MAX STREET SETBACK MAY BE GREATER THAN 10' PROVIDED AT LEAST 75% OF BUILDING FRONT IS WITHIN 10', AND A PEDESTRIAN ACCESS IS LOCATED ALONG THE FRONT AND NO PARKING IS LOCATED BETWEEN FRONT OF BLDG AND STREET.

SITE DATA	
BUILDING AREA	
USE	
RETAIL *	1,300 S.F.
OFFICE	5,764 S.F.
TOTAL	7,264 S.F.

PARKING	REQUIRED	PROPOSED
NEW STRUCTURE		
TOTAL PARKING		
OFFICE		
(1 SP / 400 S.F.)	15	16
RETAIL *		
(1 SP / 200 S.F.)	0	0
TOTAL	23	24
BARRIER FREE	1	2

* BASED UPON PREVIOUS DISCUSSIONS WITH CITY STAFF ON A SIMILAR PROJECT, THE BANK TRANSITION AREA WOULD BE CONSIDERED RETAIL SPACE, AS BANK USE AND PARKING REQUIREMENTS ARE NOT DEFINED WITHIN THE MUNICIPAL ORDINANCE.

NOTE: THIS PLAN SET IS ISSUED FOR
PERMITTING PURPOSES AND SHALL
NOT BE USED FOR CONSTRUCTION.



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Rev.	Date	Revision
-	-	-

CURRENT REVIEW	12/15/14	AMP
Issued For	Date	By

Design: AWP	Draft: EA	Date: DEC 2014
Checked: AWP	Scale: 1"=10'	Job No: 2572
File Name: 2014-SP4-A		

This plan shall not be modified without written permission from Corliss-Palmer Consulting Engineers, Inc.(CPCEI). Any alterations, authorized or otherwise, shall be at the user's sole risk and without liability to CPCEI.



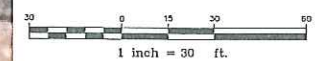
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Drawing Name:	Concept Plan
Project:	Bangor Savings Bank 20 Marginal Way, Portland, Maine
Client:	Bangor Savings Bank 99 Franklin Street, Bangor, Maine 04401

Drawing No.
C101

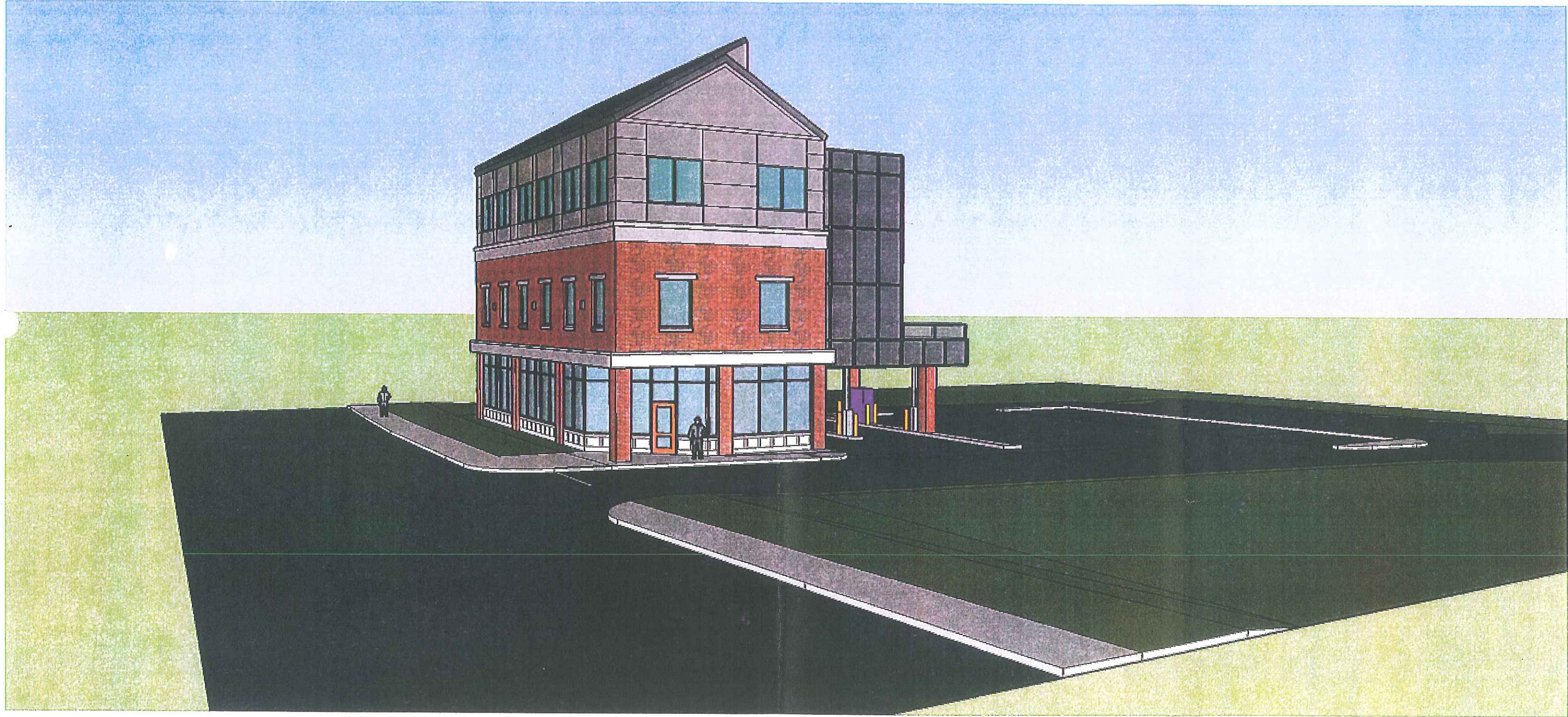


NOTE: THIS PLAN SET IS ISSUED FOR PERMITTING PURPOSES AND SHALL NOT BE USED FOR CONSTRUCTION.



Plan 3







Plan 4







Order 256-14/15
~~Tab 30 5-18-15~~
Tab 6 6-1-15

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 7 (CEMETERIES)
ARTICLES I. TO VII.
RE: UPDATES TO CEMETERY ORDINANCE**

1. That Articles I, II, III, IV, V and VII are hereby amended to read as follows:

ARTICLE I. IN GENERAL

...

Sec. 7-2. Hours.

~~Cemetery offices will be open from 7:00 a.m. to 3:30 p.m. Monday through Friday, except holidays. The cemeteries themselves will be open from 7:00 a.m. to 6:30 p.m. each day, except from November first to April first when they will be open from 7:00 a.m. to 4:30 p.m. The Cemetery Office will be open from 8:00 AM to 4:30 PM during Standard Time and will be open from 7:00 AM to 3:30 PM during Daylight Savings Time Monday-Friday except Holidays.~~

The cemetery grounds will be open from 7:00 AM to 6:30 PM during Standard Time and will be open from 7:00 AM to 4:30 PM during Daylight Savings Time 7 days a week.

...

Sec. 7-5. Use of Wilde Memorial Chapel.

Wilde Memorial Chapel located at Evergreen Cemetery is open to the public for a reasonable fee, as set from time to time by the Superintendent of Cemeteries. Any fee charged pursuant to this section shall be used to cover maintenance costs, the cost of utilities, and to provide necessary staff to facilitate the use of the Chapel. Wilde Memorial Chapel located at Evergreen Cemetery is open to the public without charge. Applications for use of the chapel must be made at least twelve (12) hours prior

to time desired. ~~The remains of any persons dying from any contagious disease cannot be brought into the chapel for funeral services.~~

...

ARTICLE II. LOT OWNERSHIP

Sec. 7-21. Prospective purchasers to visit cemeteries.

Persons desiring to purchase lots should visit the cemeteries where the ~~Superintendent~~ of ~~Cemeteries~~ or authorized designee will aid them in making a selection. Special rules relating to such lots will be explained and a copy of this chapter will be made available to prospective purchasers.

...

Sec. 7-30. Lost or destroyed deeds.

A lost or destroyed deed will be replaced by a ~~new deed~~ copy of the deed upon request upon payment of one dollar (\$1.00).

...

ARTICLE III. CARE OF LOTS*

~~Sec. 7-46. Perpetual care classification.~~ RESERVED.

~~There are the following four (4) types of perpetual care which may be obtained from the city for the permanent maintenance of lots in cemeteries: (Classes 2nd, 3rd and 4th apply only to Evergreen Cemetery)~~

~~(a) 1st class. 1st class perpetual care includes keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed.~~

~~(b) 2nd class. 2nd class perpetual care embraces any or all divisions in first class care, as well as the proper care and cleaning of all granite, stone, marble, or bronze structures on the lot at the time care is assumed, as well as any future erections expressly specified, but does not include replacement of any such structures.~~

~~(c) 3rd class. 3rd class perpetual care assumes the same care as 2nd class care and, in addition, includes replacement of structures as described above when necessary.~~

~~4th class. 4th class perpetual care includes all divisions in 1st class care and the care of any tombs, vaults or mausoleums, such as the pointing of joints, keeping walls in place, and the structure as a whole in a suitable and sanitary condition.~~

Sec. 7-47. Perpetual care required; may be purchased.

All lots sold after August 19, 1970, must include perpetual care consisting of keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed.~~1st class perpetual care, except in cases of Sections OO, MM and LL (a) in Forest City Cemetery and Section SG in Evergreen where such requirement is optional, and pPerpetual care may be purchased to cover any lots previously sold without care.~~

...

Sec. 7-49. Additional care may be purchased.

(a) *By agreement.* Lot owners desiring additional care of their lots may arrange for such care with the superintendent of cemeteries who shall give an estimate of the cost of the work desired. This care may be provided for ~~by annual payments made by the lot owner or~~ by the establishment of a trust fund under such agreement as may be determined between the superintendent and the lot owner. The limitations of this type of care may vary according to the capabilities of the individual cemeteries.

By bequest. In addition to the foregoing, the superintendent of cemeteries is authorized to accept testamentary bequests for additional lot care including, but not limited to, trust funds, upon his determination that the purpose of the bequest can be financially and lawfully implemented. In the event that it cannot be so implemented, the superintendent shall notify the estate's representative to that effect.

...

Sec. 7-52. Who may provide care for lots.

No person except a lot owner, ~~his or her authorized representative,~~ or an employee of the cemeteries, acting under

the direction of the superintendent of cemeteries, is permitted to enter the cemeteries for the purpose of caring for lots without special permission of the Superintendent of Cemeteries secured in advance. The Superintendent of Cemeteries reserves the right to give authorization to any workmen, other than employees of the cemetery, before they may do work in any cemetery. Burial Right holders may have certain work done in accordance with these Rules and Regulations at their own expense upon application to the Superintendent of Cemeteries; prices to be agreed upon and paid before said work is done.

All outside workers must submit a Certificate of Insurance to the satisfaction of the City for review before commencing any work in the cemetery.

...

ARTICLE IV. INTERMENTS*

Sec. 7-66. Funerals in charge of cemeteries.

All funerals entering the cemeteries ~~shall be under the direction of a funeral director who~~ shall abide by the rules and regulations of the respective cemetery, and ~~funeral directors~~ upon arrival at a cemetery must present to the superintendent of cemeteries the necessary burial permit from the city clerk.

Sec. 7-67. Previous notices required for interments, etc.

The right is reserved by the cemeteries to insist upon at least ~~twenty-four~~ thirty-six (24~~36~~) hours' notice of any interment and at least one (1) week's notice of any disinterment or removal. The cemeteries reserve the right to postpone interment/disinterment time due to acts of nature, God, civil and national emergencies.

Sec. 7-68. Times for interments.

The cemeteries will be open for interments from 8:00 a.m. to 4:30~~2:00~~ p.m., Monday through Friday. Requests for openings ~~prior to 10:00 a.m.~~ on Mondays must reach the cemetery offices before noon on Friday. Any services extending beyond or scheduled after these hours, or Saturday interments, will require an additional charge above the regular interment fee. No interments will be made on Sundays or legal holidays, except on proclamation of an emergency.

Sec. 7-69. Interments to be authorized by lot owners.

All orders for interments in lots must be signed by the owner of the lot, or his or her authorized representative. When this is impossible because of absence from the city, ~~telegraphic~~ permission will be accepted by fax or scanned pdf in lieu of signed authorization.

Sec. 7-70. Number of interments in single grave.

No interment of two (2) or more bodies shall be made in one (1) grave, except in the case of mother and child, or two (2) infants, buried in one (1) casket. Further variation may be made in the case of cremations within family lots subject to the placing of markers and upon prior approval of the superintendent of cemeteries. One body and one cremains or two cremains will be allowed in a single full-size grave.

...

Sec. 7-73. Graves opened only when.

Once an interment has been made, graves will be opened only by officials and employees of the cemeteries in the sole and exclusive judgment of the superintendent of cemeteries that such opening is proper, necessary, and duly authorized or when the cemetery is directed to make a disinterment by an elder order of a court of competent jurisdiction and a certified copy of such order has been filed with the superintendent of cemeteries. In all cases the responsibility of the cemetery shall be limited to opening of the grave only and the actual disinterment must be made by the person authorized to do so.

...

ARTICLE V. PLANTS, SHRUBS AND FLOWERS*

...

Sec. 7-89. Plantings on single lots, etc.

No shrubs or evergreens will be permitted on a single grave lot. No plantings of any shrubs or trees will be permitted at individual headstones or flush markers. Plantings on two (2) grave or larger plots must first be approved by the superintendent of cemeteries. Planting of annuals is allowed in certain sections of the cemetery as approved by the

Superintendent of Cemeteries. Please contact Office for details.

...

ARTICLE VII. RULES OF CONDUCT*

...

Sec. 7-136. Unauthorized items removed from lots.

The placing of boxes, shells, toys, ornaments, chairs, settees or similar unauthorized items upon lots will not be permitted, and the superintendent of cemeteries reserves the right to remove any such unauthorized items. The use of shells, stones, lawn ornaments, statues, glass containers, solar lights, shepherds crooks, tin cans and other similar items is strictly prohibited on the lots. No lawn ornament of any kind as defined by the Superintendent of Cemeteries or his or her authorized designee shall be allowed. The Superintendent reserves the right to remove without notice any planting or object that is in violation of these regulations, or that in the opinion of the Superintendent of Cemeteries is a hazard to cemetery employees or injurious to the general appearance of the cemetery.

...

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: April 12, 2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: Chapter 7 Revisions – Cemetery Operations

SPONSOR: City Manager

(If sponsored by a Council committee, list the date the committee met and the results of vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading _____ April 27, 2015 _____ Final Action _____

Can action be taken at a later date: ☒ Yes ☐ No (If no why not?)

PRESENTATION: None that is known of.

I. SUMMARY OF ISSUE (Agenda Description)

The Department of Public Services wishes to update language in Chapter 7 of the City Code to address to reflect current cemetery management practices.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

It has been many years since Chapter 7 has been amended. Over the years operating procedures and funeral practices have evolved making some of the language in the ordinance archaic or obsolete. The proposed amendments are “housekeeping” to align the language with current practices. The proposed amendments also allows staff to charge a reasonable fee for the use of Wilde Chapel. Corporation Counsel has reviewed the records and can find no language prohibiting this. This amendment would provide clarity.

III. INTENDED RESULT

Please see above.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

The language will ensure that all lots purchased pay for perpetual care so the City has the means to properly care for the lot in the future. It also allows the City to recover reasonable costs for outside use of Wilde Chapel.

VI. STAFF ANALYSIS

VII. RECOMMENDATION

Approval of the amendments

VIII. LIST ATTACHMENTS

- Chapter 7 Mark Up
- Memo to Transportation, Sustainability and Energy Committee
- Agenda Memo

Prepared by:

Troy Moon
Environmental Programs and Open Space Manager

Date: April 13, 2015

Portland, Maine



Yes. Life's good here.

Michael J. Bobinsky
Director of Public Services

To: Members of the Transportation, Sustainability and Energy Committee
From: Troy Moon, Environmental Programs and Open Space Manager
Subject: Communication -- Cemetery Ordinance Updates
Date: 3/12/2014

Last march the Department of Public Services presented you with a number of changes to Chapter 7 of the City Code that need to be updated based on changes in cemetery operations and management that have occurred over time. After discussion, your committee unanimously recommended that the changes be advanced to the City Council. Unfortunately, we did not move this item to a Council agenda. Before we do so, we want to re-familiarize you with the issues involved so you are not caught by surprise when it appears on the agenda.

Beginning in 1970 the city began requiring fifty percent of the purchase price of graves, to be placed into a perpetual care fund. The city stopped selling stone insurance at this time. We also want to strike the language referencing the different levels of stone insurance.

We would like to add language which would permit the City to charge a reasonable fee for use of the chapel for funerals in order to cover costs related to holding such events in the building. There has been some confusion about this over the years and administrations have treated this differently. Corporation Counsel has reviewed the records and can find no specific language indicating that we could not charge a fee, and want to clarify that in the ordinance.

Staff will be present to go over these changes and answer any questions, should you have any.

Portland, Maine



Yes. Life's good here.

Michael J. Bobinsky
Director of Public Services

To: Mayor Brennan and Members of the Portland City Council
From: Troy Moon, Environmental Programs and Open Space Manager
Subject: Cemetery Ordinance Updates
Date: 4/13/2015

It has been some time since language in Chapter 7 of the City Code has been reviewed and we have found a number of areas that need to be updated based on changes in cemetery operations and management that have occurred over time.

Beginning in 1970 the city began requiring fifty percent of the purchase price of graves, to be placed into a perpetual care fund. The city stopped selling stone insurance at this time. We also want to strike the language referencing the different levels of stone insurance.

We would like to add language which would permit the City to charge a reasonable fee for use of the chapel for funerals in order to cover costs related to holding such events in the building. There has been some confusion about this over the years and administrations have treated this differently. Corporation Counsel has reviewed the records and can find no specific language indicating that we could not charge a fee, and want to clarify that in the ordinance.

Staff will be present to go over these changes and answer any questions.

Chapter 7 CEMETERIES*

*Cross reference(s)--Streets, sidewalks and other public places, Ch. 25.

State law reference(s)--Cemetery corporations, 13 M.R.S.A. § 1031 et seq.

- Art. I. In General, §§ 7-1--7-20
- Art. II. Lot Ownership, §§ 7-21--7-45
- Art. III. Care of Lots, §§ 7-46--7-65
- Art. IV. Interments, §§ 7-66--7-85
- Art. V. Plants, Shrubs and Flowers, §§ 7-86--7-105
- Art. VI. Monuments, Tombs, Mausoleums and Other Structures, §§ 7-106--7-122
- Art. VII. Rules of Conduct, §§ 7-123--7-139

ARTICLE I. IN GENERAL

Sec. 7-1. Purpose and intent.

For the mutual protection of lot owners and the cemeteries as a whole, the rules and regulations in this chapter are hereby established for all municipal cemeteries. All lot owners and persons visiting the cemeteries shall abide by such rules and regulations as herein enacted and as hereafter amended, which are intended to assist in maintaining our cemeteries as peaceful and beautiful areas as well as reverent symbols of respect for the dead.

(Code 1968, § 502.1; Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-2. Hours.

~~Cemetery offices will be open from 7:00 a.m. to 3:30 p.m. Monday through Friday, except holidays. The cemeteries themselves will be open from 7:00 a.m. to 6:30 p.m. each day, except from November first to April first when they will be open from 7:00 a.m. to 4:30 p.m. The Cemetery Office will be open from 8:00 AM to 4:30 PM during Standard Time and will be open from 7:00 AM to 3:30 PM during Daylight Savings Time Monday-Friday except Holidays.~~

The Cemetery grounds will be open from 7:00 AM to 6:30 PM during Standard Time and will be open from 7:00 AM to 4:30 PM during Daylight Savings Time 7 days a week.

(Code 1968, § 502.2(a)(1); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-3. Employees.

- (a) Cemetery employees shall not work on Saturdays, Sundays and holidays except that Saturday employment may be permitted by the superintendent of cemeteries for an additional charge as established by the city council or that employment may be required at times as determined by the department head.
- (b) Cemetery employees are not permitted to do any work for lot owners or other persons except upon order of the superintendent of cemeteries but are required to be civil and courteous to all persons visiting the cemeteries.
- (c) No gratuity shall be accepted by any cemetery employee.
(Code 1968, § 502.2(a)(2), (a)(3), (a)(5); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-4. Fees.

All fees or charges for services are payable at the cemetery offices, except that interment charges may be payable through any reputable funeral director and any foundation charges for monuments or marker emplacement may be payable through any reputable monument dealer.
(Code 1968, § 502.2(a)(4); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-5. Use of Wilde Memorial Chapel.

Wilde Memorial Chapel located at Evergreen Cemetery is open to the public for a reasonable fee, as set from time to time by the Superintendent of Cemeteries. Any fee charged pursuant to this section shall be used to cover maintenance costs, the cost of utilities, and to provide necessary staff to facilitate the use of the Chapel. ~~Wilde Memorial Chapel located at Evergreen Cemetery is open to the public without charge. Applications for use of the chapel must be made at least twelve (12) hours prior to time desired. The remains of any persons dying from any contagious disease cannot be brought into the chapel for funeral services.~~

(Code 1968, § 502.10)

Sec. 7-6. Correction of errors.

The cemeteries reserve the right to correct any errors that may be made by them in making interments, disinterments or removals, or in the description, transfer or conveyance of any lot. Errors of lot owners in failing to specify proper interment position, or of monument dealers in failing to clearly specify monument or marker foundation positions will be cause once work is in progress by the cemeteries for a fair additional charge in the event a change is requested.
(Code 1968, § 502.9)

Sec. 7-7. Enforcement.

The superintendent of cemeteries is hereby empowered to enforce the rules and regulations of this chapter and to exclude from the cemeteries any person deliberately violating such rules and regulations. The superintendent shall have charge of the grounds and buildings within city cemeteries and shall have supervision and control of employees and all persons visiting the cemeteries, whether lot owners or otherwise.
(Code 1968, § 502.11)

Sec. 7-8. Reserved.

Sec. 7-9. Reserved.

Sec. 7-10. Reserved.

Sec. 7-11. Reserved.

Sec. 7-12. Reserved.

Sec. 7-13. Reserved.

Sec. 7-14. Reserved.

Sec. 7-15. Reserved.

Sec. 7-16. Reserved.

Sec. 7-17. Reserved.

Sec. 7-18. Reserved.

Sec. 7-19. Reserved.

Sec. 7-20. Reserved.

ARTICLE II. LOT OWNERSHIP

Sec. 7-21. Prospective purchasers to visit cemeteries.

Persons desiring to purchase lots should visit the cemeteries where the superintendent of cemeteries or designee will aid them in making a selection. Special rules relating to such lots will be explained and a copy of this chapter will be made available to prospective purchasers.
(Code 1968, § 502.3(a))

Sec. 7-22. Details of purchase.

The purchase price must be paid in full at the time of purchase and receipt for such purchase price will be given to the purchaser at that time. Within ten (10) days thereafter a deed will be sent to the purchaser by the director of finance. A description of lots contained in such deeds shall be in accordance with cemetery plots which are kept on file in the cemetery offices. It shall be the duty of the lot owner to notify the respective cemetery office of any change in address after purchase.
(Code 1968, § 502.3(b))

Sec. 7-23. Lots not subdivided or sold jointly.

Lots of various sizes are available in the cemeteries and, therefore, no lots will be subdivided.
(Code 1968, § 502.3(c))

Sec. 7-24. Purchasers-rights in roads, drives or paths.

No easement or right of interment is granted to any lot owner in any road, drive or path within the cemeteries, but such road, drive or path may be used as a means of access to the cemetery or buildings so long as it shall be devoted to such purpose.

(Code 1968, § 502.3(d))

Sec. 7-25. Rights reserved to cemeteries.

The right to enlarge, reduce, replot or change the boundaries or grading of the cemeteries, or a section or sections thereof, from time to time, including the right to modify or change the location of, or remove or regrade roads, drives, or walks, or any part thereof, is hereby reserved. The right to lay, maintain and operate, or alter or change, pipe lines or gutters for sprinkler systems and drainage purposes is also expressly reserved, as well as is the right to use cemetery property, not sold to lot owners, for cemetery purposes, including interment of the dead, or for anything necessary, incidental, or convenient thereto. The cemeteries reserve to themselves, and to those lawfully entitled thereto, a perpetual right of ingress and egress over lots for the purpose of passing to and from other lots.

(Code 1968, § 502.3(e))

Sec. 7-26. Cemeteries not responsible for loss or damage.

All reasonable precautions will be taken to protect lot owners and the property rights of lot owners within the cemeteries from loss or damage, but the cemeteries will not be responsible for loss or damage from causes beyond their reasonable control, and especially from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief-makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than is hereby provided.

(Code 1968, § 502.3(f))

Sec. 7-27. Terms of agreement with lot owners.

The deed, perpetual care bond and this chapter constitute the sole agreement between the cemeteries, the city and lot owners. The statement of any employee or agent, unless confirmed in writing by an authorized representative of the cemeteries or the city shall in no way bind the cemeteries or the city.

(Code 1968, § 502.3(g))

Sec. 7-28. Repurchase or exchange of lots by superintendent.

The superintendent of cemeteries shall have the authority to purchase outright, or by exchange for other lots on behalf of the city, any unoccupied lot at such price as may be agreed upon by the owner and the superintendent.
(Code 1968, § 502.3(h))

Sec. 7-29. Transfer of lots.

Transfer of lots will not be recognized without the consent of the superintendent of cemeteries, and transfer deeds may be obtained at the offices of the cemeteries.
(Code 1968, § 502.3(i))

Sec. 7-30. Lost or destroyed deeds.

A lost or destroyed deed will be replaced by ~~a new deed~~ a copy of the deed upon request upon payment of one dollar (\$1.00).
(Code 1968, § 502.3(j))

Sec. 7-31. Descent of title.

The laws of the state govern the descent of title to cemetery lots, as well as other matters relating to their ownership. It is important that, on the decease of an owner of a lot, the heirs or devisees of such person should file in the office of the respective cemetery full proof of ownership for the purpose of correcting the record. Notarized statements as to relationship and certified copies of wills are normally sufficient.
(Code 1968, § 502.8)

Sec. 7-32. Reserved.

Sec. 7-33. Reserved.

Sec. 7-34. Reserved.

Sec. 7-35. Reserved.

Sec. 7-36. Reserved.

Sec. 7-37. Reserved.

Sec. 7-38. Reserved.

Sec. 7-39. Reserved.

Sec. 7-40. Reserved.

Sec. 7-41. Reserved.

Sec. 7-42. Reserved.

Sec. 7-43. Reserved.

Sec. 7-44. Reserved.

Sec. 7-45. Reserved.

ARTICLE III. CARE OF LOTS*

*State law reference(s)--Care and maintenance of cemeteries, 13
M.R.S.A. § 1305.

Sec. 7-46. RESERVED

~~There are the following four (4) types of perpetual care which may be obtained from the city for the permanent maintenance of lots in cemeteries: (Classes 2nd, 3rd and 4th apply only to Evergreen Cemetery)~~

~~(a) 1st class. 1st class perpetual care includes keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed.~~

~~(b) 2nd class. 2nd class perpetual care embraces any or all divisions in first class care, as well as the proper care and cleaning of all granite, stone, marble, or bronze structures on the lot at the time care is assumed, as well as any future erections expressly specified, but does not include replacement of any such structures.~~

~~(c) 3rd class. 3rd class perpetual care assumes the same care as 2nd class care and, in addition, includes replacement of structures as described above when necessary.~~

~~4th class. 4th class perpetual care includes all divisions in 1st class care and the care of any tombs, vaults or mausoleums, such as the pointing of joints, keeping walls in place, and the structure as a whole in a suitable and sanitary condition.~~

Sec. 7-47. Perpetual care required; may be purchased.

All lots sold after August 19, 1970, must include perpetual care consisting of keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed. ~~except in cases of Sections OO, MM and LL (a) in Forest City Cemetery and Section SG in Evergreen where such requirement is optional,~~ Perpetual care may be purchased to cover any lots previously sold without care.

(Code 1968, § 502.4(b); Ord. No. 441-70, § 1, 7-20-70)

Sec. 7-48. Nature of care provided by cemeteries without cost.

The general care of the cemeteries is the responsibility of the city by and through its superintendent of cemeteries and includes reasonable and practical care of the unsold areas of the cemeteries, such as park and lawn areas, roads, shrubs and trees, which have been established by the cemeteries. In no case shall it mean the maintenance, repair or replacement of any memorial, tomb or mausoleum erected or placed upon a lot, nor the performing of any special or unusual work in the cemeteries.

(Code 1968, § 502.4(c))

Sec. 7-49. Additional care may be purchased.

(a) *By agreement.* Lot owners desiring additional care of their lots may arrange for such care with the superintendent of cemeteries who shall give an estimate of the cost of the work desired. This care may be provided for ~~by annual payments made by the lot owner or~~ by the establishment of a trust fund under such agreement as may be determined between the superintendent and the lot owner. The limitations of this type of care may vary according to the capabilities of the individual cemeteries.

By bequest. In addition to the foregoing, the superintendent of cemeteries is authorized to accept testamentary bequests for additional lot care including, but not limited to, trust funds, upon his determination that the purpose of the bequest can be financially and lawfully implemented. In the event that it

cannot be so implemented, the superintendent shall notify the estate's representative to that effect.
(Code 1968, § 502.4(d); Ord. No. 16-90, 6-18-90)

Sec. 7-50. Investment of trust and care funds.

All care funds held by the city, whether trust or perpetual care will be invested by the city as provided by law and will be expended only as provided by the trust or perpetual care agreement.
(Code 1968, § 502.4(e))

Sec. 7-51. Semi-active cemeteries.

Semi-active cemeteries of the city will be maintained as prescribed by the parks authority.
(Code 1968, § 502.4(f))

Sec. 7-52. Who may provide care for lots.

No person except a lot owner, ~~his or her~~ authorized representative, or an employee of the cemeteries, acting under the direction of the superintendent of cemeteries, is permitted to enter the cemeteries for the purpose of caring for lots without special permission of the superintendent of cemeteries secured in advance. The Management reserves the right to give authorization to any workmen, other than employees of the cemetery, before they may do work in any cemetery. Burial Right holders may have certain work done in accordance with these Rules and Regulations at their own expense upon application to the Management; prices to be agreed upon and paid before said work is done.

All outside workers must submit a Certificate of Insurance for review before commencing any work in the cemetery.

(Code 1968, § 502.4(g))

Sec. 7-53. Lot boundaries not to be defined.

No new lot or grave shall be defined by a fence, rail, curb, hedge, trees or shrubs for the purpose of describing its corners or boundaries.
(Code 1968, § 502.4(h))

Sec. 7-54. Reserved.
Sec. 7-55. Reserved.
Sec. 7-56. Reserved.
Sec. 7-57. Reserved.
Sec. 7-58. Reserved.
Sec. 7-59. Reserved.
Sec. 7-60. Reserved.
Sec. 7-61. Reserved.
Sec. 7-62. Reserved.
Sec. 7-63. Reserved.
Sec. 7-64. Reserved.
Sec. 7-65. Reserved.

ARTICLE IV. INTERMENTS*

*State law reference(s)--Disposal of bodies, 13 M.R.S.A. § 1032.

Sec. 7-66. Funerals in charge of cemeteries.

All funerals entering the cemeteries ~~shall be under the direction of a funeral director who~~ shall abide by the rules and regulations of the respective cemetery, and ~~funeral directors~~ upon arrival at a cemetery must present to the superintendent of cemeteries the necessary burial permit from the city clerk.
(Code 1968, § 502.5(b))

Sec. 7-67. Previous notices required for interments, etc.

The right is reserved by the cemeteries to insist upon at least ~~twenty-four~~ thirty-six (2436) hours' notice of any interment and at least one (1) week's notice of any disinterment or removal. The cemeteries reserve the right to postpone

interment/disinterment time due to acts of nature, God, civil and national emergencies.
(Code 1968, § 502.5(i))

Sec. 7-68. Times for interments.

The cemeteries will be open for interments from 8:00 a.m. to ~~4:30~~2:00 p.m., Monday through Friday. Requests for openings ~~prior to 10:00 a.m.~~ on Mondays must reach the cemetery offices before noon on Friday. Any services extending beyond or scheduled after these hours, or Saturday interments, will require an additional charge above the regular interment fee. No interments will be made on Sundays or legal holidays, except on proclamation of an emergency.
(Code 1968, § 502.5(a))

Sec. 7-69. Interments to be authorized by lot owners.

All orders for interments in lots must be signed by the owner of the lot, or his or her authorized representative. When this is impossible because of absence from the city, telegraphic ? permission will be accepted in lieu of signed authorization.
(Code 1968, § 502.5(d))

Sec. 7-70. Number of interments in single grave.

No interment of two (2) or more bodies shall be made in one (1) grave, except in the case of mother and child, or two (2) infants, buried in one (1) casket. Further variation may be made in the case of cremations within family lots subject to the placing of markers and upon prior approval of the superintendent of cemeteries. One body and one cremains or 2 cremains will be allowed in a single full size grave.
(Code 1968, § 502.5(e))

Sec. 7-71. Location within lot to be designated by owner.

When an interment is to be made in a lot, the location of such interment shall be designated by the lot owner, or his or her authorized representative. Should he or she fail or neglect to make such designation, the cemeteries reserve the right to make the interment in a location designated by the superintendent of cemeteries. The cemeteries shall not be

responsible for errors from telephone information lacking precise and proper instructions as to the particular space, size of grave, and location in a lot, where interment is desired.
(Code 1968, § 502.5(f))

Sec. 7-72. Caskets opened only when.

Once a casket containing a body is within the confines of a cemetery, it shall not be opened except by a funeral director or his or her assistants or on an order signed by a court of competent jurisdiction.
(Code 1968, § 502.5(c))

Sec. 7-73. Graves opened only when.

Once an interment has been made, graves will be opened only by officials and employees of the cemeteries in the sole and exclusive judgment of the superintendent of cemeteries that such opening is proper, necessary, and duly authorized or when the cemetery is directed to make a disinterment by an ~~older~~ order of a court of competent jurisdiction and a certified copy of such order has been filed with the superintendent of cemeteries. In all cases the responsibility of the cemetery shall be limited to opening of the grave only and the actual disinterment must be made by the person authorized to do so.
(Code 1968, § 502.5(g))

Sec. 7-74. Outside containers required.

In order to maintain a high standard of care and to eliminate sunken graves caused by the collapse of wooden boxes, all burials must be made in outside containers constructed of natural stone, or of metal, or of reinforced concrete, or approved synthetics. All such containers must be made and installed so as to meet the specifications established by the superintendent of cemeteries. Outside containers may be procured from any source provided they meet the established specifications. Cement liners may be purchased and installed through the cemeteries, if so desired.
(Code 1968, § 502.5(h))

Sec. 7-75. Reserved.

Sec. 7-76. Reserved.

Sec. 7-77. Reserved.

Sec. 7-78. Reserved.

Sec. 7-79. Reserved.

Sec. 7-80. Reserved.

Sec. 7-81. Reserved.

Sec. 7-82. Reserved.

Sec. 7-83. Reserved.

Sec. 7-84. Reserved.

Sec. 7-85. Reserved.

ARTICLE V. PLANTS, SHRUBS AND FLOWERS*

*Cross reference(s)--Vegetation generally, Ch. 29.

Sec. 7-86. Responsibility of cemeteries.

The cemeteries will undertake to maintain, to the extent practicable, the planting of trees and shrubs to preserve its landscape features, but will not undertake to maintain individual plantings, or urns of plants, except when so contracted to do so by special arrangement.
(Code 1968, § 502.6(a))

Sec. 7-87. Plantings; permission may be granted.

No individual beds of shrubbery or flowers shall be permitted on the grounds of the cemeteries, except by special permission of the superintendent of cemeteries, and request for such permission should be accompanied by a scaled sketch of the proposed planting, showing the location and name of the proposed plantings.

(Code 1968, § 502.6(b))

Sec. 7-88. Care of evergreens where authorized.

In the monumental sections of the cemeteries where certain areas allow the planting of evergreens, dwarf Alberta spruce and dwarf arborvitae are the only evergreens allowed. All evergreens and shrubs must be kept trimmed to within six (6) inches of the lot borders. The cemeteries will, to the extent practicable, trim all evergreens properly placed on lots. Any trees or shrubs exceeding the six (6) inch mark will be severely cut back or removed.

(Code 1968, § 502.6(c))

Sec. 7-89. Plantings on single lots, etc.

No shrubs or evergreens will be permitted on a single grave lot. No plantings of any shrubs or trees will be permitted at individual headstones or flush markers. Plantings on two (2) grave or larger plots must first be approved by the superintendent of cemeteries. Planting of annuals is allowed in certain sections of the cemetery. Please contact Office for details.

(Code 1968, § 502.6(d))

Sec. 7-90. Floral displays on graves.

Only one (1) floral display is permitted on a grave at any one (1) time. Exceptions to this rule will be permitted during one (1) week prior to and one (1) week following Memorial Day and at the time of interment. No glass jars, unsightly metal receptacles or breakable flower containers shall be placed on lots. True floral containers, recessed holders and rustic baskets are recommended.

(Code 1968, § 502.6(e))

Sec. 7-91. Regulations covering Memorial Park or nonmonumental areas.

In the Memorial Park or nonmonumental sections of the cemeteries, the primary aim is to create a beautiful expanse of park-like grounds, bordered by appropriate shrubs, trees and gardens. Within such areas all markers shall be flush with the surface. No individual plants within the burial areas will be

permitted. Only one (1) floral display shall be permitted on a grave at any one (1) time, with the exceptions as set forth under section 7-90. Except for recessed containers, all plant and flower holders shall be placed upon the individual marker. In the absence of a marker, permission may be granted for the placement of memorial flowers or plants above ground on the normal location of a marker space. Cooperation of lot owners in this area will permit better maintenance and opportunities to improve the appearance and quality of the turf within these areas.

(Code 1968, § 502.6(f))

Sec. 7-92. Right of cemeteries to remove flowers and plants.

The cemeteries shall have the right to remove all floral designs, flowers, weeds, trees, shrubs, plants, or herbage of any kind from the cemeteries as soon as, in their judgment, they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standard maintained in the cemeteries.

(Code 1968, § 502.6(g))

Sec. 7-93. Cemeteries not responsible for flowers and plantings.

The cemeteries shall not be responsible for floral pieces, baskets or frames in which or to which floral pieces are placed or attached beyond their acceptance for services held in the cemeteries, and shall not be responsible for frozen plants or herbage of any kind, or for plantings damaged by the elements, thieves, vandals or by other causes beyond their control. The cemeteries reserve the right to prevent the removal of any flowers, floral designs, trees, shrubs, plants or herbage of any kind without prior approval.

(Code 1968, § 502.6(h))

Sec. 7-94. Removal of unsightly vases, urns.

The cemeteries reserve the right to remove from lots vases or urns not properly painted or otherwise cared for or not filled with plants by June thirtieth.

(Code 1968, § 502.6(i))

Sec. 7-95. Reserved.

Sec. 7-96. Reserved.
Sec. 7-97. Reserved.
Sec. 7-98. Reserved.
Sec. 7-99. Reserved.
Sec. 7-100. Reserved.
Sec. 7-101. Reserved.
Sec. 7-102. Reserved.
Sec. 7-103. Reserved.
Sec. 7-104. Reserved.
Sec. 7-105. Reserved.

ARTICLE VI. MONUMENTS, TOMBS, MAUSOLEUMS AND
OTHER STRUCTURES*

*State law reference(s)--Mausoleums and vaults, 13 M.R.S.A. § 1341 et
seq.

Sec. 7-106. One monument per lot permitted; one marker per grave
permitted.

The owner of any lot shall have the right to erect thereon
any proper stone or monument upon authorization by the
superintendent of cemeteries. Only one (1) monument shall be
permitted on a lot which must be located in the center or center
rear, unless special permission is granted by the superintendent
for placing it otherwise. Only one (1) individual marker per
grave is allowed in any of the cemeteries. In certain areas,
however, a monument and individual headstones are permitted.
(Code 1968, § 502.7(a))

Sec. 7-107. Site and plans of structures to be approved.

Tombs, vaults or mausoleums can be constructed only in such places and be of such design as shall be approved by the superintendent of cemeteries. Complete plans and specifications must be furnished when request for permission to build is made.
(Code 1968, § 502.7(b))

Sec. 7-108. Single apartments required.

No bodies shall be placed in tombs, vaults or mausoleums except in hermetically sealed, single apartments in a manner satisfactory to the superintendent of cemeteries.
(Code 1968, § 502.7(c))

Sec. 7-109. Materials, size and design of structures.

No monument or other structure on a lot above ground shall be constructed of any other material than cut marble, granite, natural stone, or real bronze. In general, no monument or marker shall exceed a base size from end to end of sixty (60) percent of the width of the lot. However, in certain areas of the cemeteries, the specific design of particular sections has been planned to accept a certain type or size marker. These sections are familiar to local monument dealers, and more detailed information may be had at the offices of the cemeteries concerning such requirements or specifications.
(Code 1968, § 502.7(d))

Sec. 7-110. Foundations required; by whom constructed.

No stone, monument, tomb, vault or other superstructure shall be erected until a suitable foundation is laid. All foundations for monuments shall be not less than four (4) feet in depth. Deeper foundations will be used when deemed advisable by the superintendent of cemeteries. As a guarantee of good work, for the general welfare of the cemeteries, and for protection to lot owners, the cemeteries reserve the right to construct all foundations for such structures. The superintendent of cemeteries may, however, if deemed advisable, authorize under his supervision the construction of such foundation by other qualified contractors.
(Code 1968, § 502.7(e))

Sec. 7-111. Perpetual care required.

All tombs, mausoleums or vaults constructed after August 19, 1970, shall have such provision made for perpetual care as is adequate in each case.
(Code 1968, § 502.7(f))

Sec. 7-112. Reserved.

Sec. 7-113. Reserved.

Sec. 7-114. Reserved.

Sec. 7-115. Reserved.

Sec. 7-116. Reserved.

Sec. 7-117. Reserved.

Sec. 7-118. Reserved.

Sec. 7-119. Reserved.

Sec. 7-120. Reserved.

Sec. 7-121. Reserved.

Sec. 7-122. Reserved.

ARTICLE VII. RULES OF CONDUCT*

*Cross reference(s)--Offenses and miscellaneous provisions, Ch. 17.

Sec. 7-123. Trespass.

No person other than a cemetery employee on authorized duties shall enter any cemetery after the hours or times specified in section 7-2 and any person so entering shall be guilty of trespass.

(Code 1968, § 502.2(b)(1); Ord. No. 591-7, § 1, 11-3-75)

Sec. 7-124. Malicious mischief.

No person shall destroy, mutilate, deface, injure or remove any tomb, monument, gravestone, marker or other structure placed within any cemetery, or any fence, railing, or other work for the protection or ornamentation of any tomb, monument, gravestone, marker or other structure aforesaid, or any cemetery lot within any cemetery.

(Code 1968, § 502.2(b)(3); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-125. Manner of travel by pedestrians.

Persons visiting the cemeteries shall use only the avenues, walks and alleys provided, and no person shall walk upon or across lots or lawns unless necessary and where such avenues, walks or alleys are not provided. The city expressly disclaims responsibility for any injury sustained by any person violating this section.

(Code 1968, § 502.2(b)(2); Ord. No. 59175, § 1, 11-3-75)

Sec. 7-126. Manner of travel by vehicles.

Motor cars and vehicles must be kept under complete control at all times. When meeting a funeral cortege, they must stop until the procession passes. They must not pass a funeral cortege, either stopped or in motion. Mufflers must not be opened, nor the horn sounded within the cemeteries, and all such vehicles shall comply with the following rules:

- (a) Maximum speed limit: Fifteen (15) miles per hour.
- (b) No vehicle may be driven or parked across or upon any grave, lot or lawn.
- (c) Parking or leaving any vehicle on any road or drive in such a way as to prevent any car or vehicle from passing is prohibited and a violation of this section will be cause for the removal of such vehicle by the superintendent of cemeteries at the owner's expense.

Making a complete or partial reverse turn of any vehicle on any road or drive is forbidden.

(Code 1968, § 502.2(b)(4); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-127. Commercial vehicles prohibited.

No commercial vehicle shall be permitted within the limits of any cemetery except those directly involved in the business of the cemetery. The words "commercial vehicle" as used in this particular subsection shall mean a motor vehicle which bears a "Com" license plate as issued by the state or motor vehicle bearing commercial plates issued by any other state.
(Code 1968, § 502.2(b)(5); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-128. Alcoholic beverages prohibited.

No person shall be in possession of or consume any alcoholic beverage within any cemetery.
(Code 1968, § 502.2(b)(6); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Alcoholic beverages generally, Ch. 3.

Sec. 7-129. Commercial enterprises prohibited.

No person shall sell or offer for sale, hire, lease or rent any object, merchandise, property, service or other thing in any cemetery nor shall any person engage in any commercial enterprise in any cemetery except such as is directly involved in the business of the cemetery.
(Code 1968, § 502.2(b)(7); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-130. Solicitations prohibited.

Solicitations, charitable, political or otherwise are prohibited in any cemetery.
(Code 1968, § 502.2(b)(8); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Peddlers and solicitors generally, Ch. 19.

Sec. 7-131. Litter.

No person shall deposit in any cemetery any garbage, sewage, refuse, waste, vegetables, foodstuffs, boxes, tin cans, paper, or other litter or waste material or obnoxious material, except in containers designed for such purposes.
(Code 1968, § 502.2(b)(9); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Garbage, wastes and junk generally, Ch. 12.

Sec. 7-132. Disorderly conduct prohibited.

No person shall behave in a loud, indecent or disorderly manner in any cemetery or except as provided by section 7-138, create any unnecessary disturbance therein.
(Code 1968, § 502.2(b)(10); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Offenses against public peace, § 17-16 et seq.

Sec. 7-133. Sports, games prohibited.

No person shall conduct or participate in any sport, game or contest in any cemetery, except ice skating.
(Code 1968, § 502.2(b)(11); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Parks, recreation and public buildings, Ch. 18.

Sec. 7-134. Minors prohibited in cemeteries; exception.

Children under fifteen (15) years of age are not permitted within the cemeteries, except when accompanied by their parents, guardian or other adult person or by a written note of permission signed by a parent or guardian, giving their telephone number or address.
(Code 1968, § 502.2(b)(12); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-135. Unleashed animals prohibited.

No person shall cause or permit any animal or dog owned by him or her, in his or her custody, or under his or her control, to go at large within any cemetery unless on the walkways and roadways only and held in leash by a responsible person, the leash not to exceed eight (8) feet in length, except as otherwise provided in section 5-15.1 of this Code for control of dogs in city-owned cemeteries.
(Ord. No. 176-96, § 8, 3-4-96)

Editor's note--Pursuant to the adoption of § 5-15.1 of this Code, § 7-135, which prohibited unleashed animals in cemeteries, has been deleted, treated as repealed by said § 5-15.1. Formerly, § 7-135 derived from § 502.2(b)(13) of the city's 1968 Code as amended by Ord. No. 591-75, § 1, adopted Nov. 3, 1975. Subsequently, Ord. No. 176-96, § 8, adopted Mar. 4, 1996, enacted similar new provisions as herein set out.

Sec. 7-136. Unauthorized items removed from lots.

~~The placing of boxes, shells, toys, ornaments, chairs, settees or similar unauthorized items upon lots will not be permitted, and the superintendent of cemeteries reserves the right to remove any such unauthorized items. The use of shells, stones, lawn ornaments, statues, , glass containers, solar lights, shepherds crooks, tin cans and other similar items is strictly prohibited. No Lawn ornament of any kind as defined by the Superintendent of Cemeteries or his/her designee shall be allowed. The Superintendent reserves the right to remove without notice any planting or object that is in violation of these regulations, or in the opinion of the Management is a hazard to its employees or injurious to the general appearance of the cemetery.~~

(Code 1968, § 502.2(b)(14); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-137. Signs prohibited.

No sign, notice or advertisement of any kind except directional, identification signs placed by cemetery personnel shall be permitted in any cemetery and the superintendent of cemeteries shall remove same.

(Code 1968, § 502.2(b)(15); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Signs and billboards generally, § 14-366 et seq.

Sec. 7-138. Firearms, fireworks, weapons, etc., prohibited.

The bringing of firearms into any cemetery, except by a military escort, is prohibited. The discharging of, or carrying, offensive weapons of any type, or the hurling of rocks or pellets, or the discharging of fireworks therein is strictly prohibited. This is not to be construed as prohibiting ceremonial volleys with blank charges by properly supervised honor guards as a tribute to a deceased person if such ceremonial undertaking has been previously scheduled with the superintendent of cemeteries.

(Code 1968, § 502.2(b)(16); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Fire prevention and protection, Ch. 10; weapons generally, § 17-41 et seq.

Sec. 7-139. Fishing prohibited.

In cemeteries containing natural or artificial ponds, the act of fishing or carrying tackle is prohibited.
(Code 1968, § 502.2(b)(17); Ord. No. 591-75, § 1, 11-3-75)

Chapter 7 CEMETERIES*

*Cross reference(s)--Streets, sidewalks and other public places, Ch. 25.
State law reference(s)--Cemetery corporations, 13 M.R.S.A. § 1031 et seq.

- Art. I. In General, §§ 7-1--7-20
- Art. II. Lot Ownership, §§ 7-21--7-45
- Art. III. Care of Lots, §§ 7-46--7-65
- Art. IV. Interments, §§ 7-66--7-85
- Art. V. Plants, Shrubs and Flowers, §§ 7-86--7-105
- Art. VI. Monuments, Tombs, Mausoleums and Other Structures, §§ 7-106--7-122
- Art. VII. Rules of Conduct, §§ 7-123--7-139

ARTICLE I. IN GENERAL

Sec. 7-1. Purpose and intent.

For the mutual protection of lot owners and the cemeteries as a whole, the rules and regulations in this chapter are hereby established for all municipal cemeteries. All lot owners and persons visiting the cemeteries shall abide by such rules and regulations as herein enacted and as hereafter amended, which are intended to assist in maintaining our cemeteries as peaceful and beautiful areas as well as reverent symbols of respect for the dead.

(Code 1968, § 502.1; Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-2. Hours.

~~Cemetery offices will be open from 7:00 a.m. to 3:30 p.m. Monday through Friday, except holidays. The cemeteries themselves will be open from 7:00 a.m. to 6:30 p.m. each day, except from November first to April first when they will be open from 7:00 a.m. to 4:30 p.m. The Cemetery Office will be open from 8:00 AM to 4:30 PM during Standard Time and will be open from 7:00 AM to 3:30 PM during Daylight Savings Time Monday-Friday except Holidays.~~

The Cemetery grounds will be open from 7:00 AM to 6:30 PM during Standard Time and will be open from 7:00 AM to 4:30 PM during Daylight Savings Time 7 days a week.

(Code 1968, § 502.2(a)(1); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-3. Employees.

- (a) Cemetery employees shall not work on Saturdays, Sundays and holidays except that Saturday employment may be permitted by the superintendent of cemeteries for an additional charge as established by the city council or that employment may be required at times as determined by the department head.
- (b) Cemetery employees are not permitted to do any work for lot owners or other persons except upon order of the superintendent of cemeteries but are required to be civil and courteous to all persons visiting the cemeteries.
- (c) No gratuity shall be accepted by any cemetery employee.
(Code 1968, § 502.2(a)(2), (a)(3), (a)(5); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-4. Fees.

All fees or charges for services are payable at the cemetery offices, except that interment charges may be payable through any reputable funeral director and any foundation charges for monuments or marker emplacement may be payable through any reputable monument dealer.
(Code 1968, § 502.2(a)(4); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-5. Use of Wilde Memorial Chapel.

Wilde Memorial Chapel located at Evergreen Cemetery is open to the public for a reasonable fee, as set from time to time by the Superintendent of Cemeteries. Any fee charged pursuant to this section shall be used to cover maintenance costs, the cost of utilities, and to provide necessary staff to facilitate the use of the Chapel. ~~Wilde Memorial Chapel located at Evergreen Cemetery is open to the public without charge. Applications for use of the chapel must be made at least twelve (12) hours prior to time desired. The remains of any persons dying from any contagious disease cannot be brought into the chapel for funeral services.~~

(Code 1968, § 502.10)

Sec. 7-6. Correction of errors.

The cemeteries reserve the right to correct any errors that may be made by them in making interments, disinterments or removals, or in the description, transfer or conveyance of any lot. Errors of lot owners in failing to specify proper interment position, or of monument dealers in failing to clearly specify monument or marker foundation positions will be cause once work is in progress by the cemeteries for a fair additional charge in the event a change is requested.
(Code 1968, § 502.9)

Sec. 7-7. Enforcement.

The superintendent of cemeteries is hereby empowered to enforce the rules and regulations of this chapter and to exclude from the cemeteries any person deliberately violating such rules and regulations. The superintendent shall have charge of the grounds and buildings within city cemeteries and shall have supervision and control of employees and all persons visiting the cemeteries, whether lot owners or otherwise.
(Code 1968, § 502.11)

Sec. 7-8. Reserved.

Sec. 7-9. Reserved.

Sec. 7-10. Reserved.

Sec. 7-11. Reserved.

Sec. 7-12. Reserved.

Sec. 7-13. Reserved.

Sec. 7-14. Reserved.

Sec. 7-15. Reserved.

Sec. 7-16. Reserved.

Sec. 7-17. Reserved.

Sec. 7-18. Reserved.

Sec. 7-19. Reserved.

Sec. 7-20. Reserved.

ARTICLE II. LOT OWNERSHIP

Sec. 7-21. Prospective purchasers to visit cemeteries.

Persons desiring to purchase lots should visit the cemeteries where the superintendent of cemeteries or designee will aid them in making a selection. Special rules relating to such lots will be explained and a copy of this chapter will be made available to prospective purchasers.

(Code 1968, § 502.3(a))

Sec. 7-22. Details of purchase.

The purchase price must be paid in full at the time of purchase and receipt for such purchase price will be given to the purchaser at that time. Within ten (10) days thereafter a deed will be sent to the purchaser by the director of finance. A description of lots contained in such deeds shall be in accordance with cemetery plots which are kept on file in the cemetery offices. It shall be the duty of the lot owner to notify the respective cemetery office of any change in address after purchase.

(Code 1968, § 502.3(b))

Sec. 7-23. Lots not subdivided or sold jointly.

Lots of various sizes are available in the cemeteries and, therefore, no lots will be subdivided.

(Code 1968, § 502.3(c))

Sec. 7-24. Purchasers-rights in roads, drives or paths.

No easement or right of interment is granted to any lot owner in any road, drive or path within the cemeteries, but such road, drive or path may be used as a means of access to the cemetery or buildings so long as it shall be devoted to such purpose.

(Code 1968, § 502.3(d))

Sec. 7-25. Rights reserved to cemeteries.

The right to enlarge, reduce, replot or change the boundaries or grading of the cemeteries, or a section or sections thereof, from time to time, including the right to modify or change the location of, or remove or regrade roads, drives, or walks, or any part thereof, is hereby reserved. The right to lay, maintain and operate, or alter or change, pipe lines or gutters for sprinkler systems and drainage purposes is also expressly reserved, as well as is the right to use cemetery property, not sold to lot owners, for cemetery purposes, including interment of the dead, or for anything necessary, incidental, or convenient thereto. The cemeteries reserve to themselves, and to those lawfully entitled thereto, a perpetual right of ingress and egress over lots for the purpose of passing to and from other lots.

(Code 1968, § 502.3(e))

Sec. 7-26. Cemeteries not responsible for loss or damage.

All reasonable precautions will be taken to protect lot owners and the property rights of lot owners within the cemeteries from loss or damage, but the cemeteries will not be responsible for loss or damage from causes beyond their reasonable control, and especially from damage caused by the elements, an act of God, common enemy, thieves, vandals, strikers, malicious mischief-makers, explosions, unavoidable accidents, invasions, insurrections, riots, or order of any military or civil authority, whether the damage be direct or collateral, other than is hereby provided.

(Code 1968, § 502.3(f))

Sec. 7-27. Terms of agreement with lot owners.

The deed, perpetual care bond and this chapter constitute the sole agreement between the cemeteries, the city and lot owners. The statement of any employee or agent, unless confirmed in writing by an authorized representative of the cemeteries or the city shall in no way bind the cemeteries or the city.

(Code 1968, § 502.3(g))

Sec. 7-28. Repurchase or exchange of lots by superintendent.

The superintendent of cemeteries shall have the authority to purchase outright, or by exchange for other lots on behalf of the city, any unoccupied lot at such price as may be agreed upon by the owner and the superintendent.
(Code 1968, § 502.3(h))

Sec. 7-29. Transfer of lots.

Transfer of lots will not be recognized without the consent of the superintendent of cemeteries, and transfer deeds may be obtained at the offices of the cemeteries.
(Code 1968, § 502.3(i))

Sec. 7-30. Lost or destroyed deeds.

A lost or destroyed deed will be replaced by ~~a new deed~~ a copy of the deed upon request upon payment of one dollar (\$1.00).
(Code 1968, § 502.3(j))

Sec. 7-31. Descent of title.

The laws of the state govern the descent of title to cemetery lots, as well as other matters relating to their ownership. It is important that, on the decease of an owner of a lot, the heirs or devisees of such person should file in the office of the respective cemetery full proof of ownership for the purpose of correcting the record. Notarized statements as to relationship and certified copies of wills are normally sufficient.
(Code 1968, § 502.8)

Sec. 7-32. Reserved.

Sec. 7-33. Reserved.

Sec. 7-34. Reserved.

Sec. 7-35. Reserved.

Sec. 7-36. Reserved.

Sec. 7-37. Reserved.

Sec. 7-38. Reserved.

Sec. 7-39. Reserved.

Sec. 7-40. Reserved.

Sec. 7-41. Reserved.

Sec. 7-42. Reserved.

Sec. 7-43. Reserved.

Sec. 7-44. Reserved.

Sec. 7-45. Reserved.

ARTICLE III. CARE OF LOTS*

*State law reference(s)--Care and maintenance of cemeteries, 13
M.R.S.A. § 1305.

Sec. 7-46. RESERVED

~~There are the following four (4) types of perpetual care which may be obtained from the city for the permanent maintenance of lots in cemeteries: (Classes 2nd, 3rd and 4th apply only to Evergreen Cemetery)~~

~~(a) 1st class. 1st class perpetual care includes keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed.~~

~~(b) 2nd class. 2nd class perpetual care embraces any or all divisions in first class care, as well as the proper care and cleaning of all granite, stone, marble, or bronze structures on the lot at the time care is assumed, as well as any future erections expressly specified, but does not include replacement of any such structures.~~

~~(c) 3rd class. 3rd class perpetual care assumes the same care as 2nd class care and, in addition, includes replacement of structures as described above when necessary.~~

~~4th class. 4th class perpetual care includes all divisions in 1st class care and the care of any tombs, vaults or mausoleums, such as the pointing of joints, keeping walls in place, and the structure as a whole in a suitable and sanitary condition.~~

Sec. 7-47. Perpetual care required; may be purchased.

All lots sold after August 19, 1970, must include perpetual care consisting of keeping the turf even and in good condition, the grass properly cut, and the trees and shrubs, as duly authorized, trimmed. ~~except in cases of Sections OO, MM and LL (a) in Forest City Cemetery and Section SG in Evergreen where such requirement is optional,~~ Perpetual care may be purchased to cover any lots previously sold without care.
(Code 1968, § 502.4(b); Ord. No. 441-70, § 1, 7-20-70)

Sec. 7-48. Nature of care provided by cemeteries without cost.

The general care of the cemeteries is the responsibility of the city by and through its superintendent of cemeteries and includes reasonable and practical care of the unsold areas of the cemeteries, such as park and lawn areas, roads, shrubs and trees, which have been established by the cemeteries. In no case shall it mean the maintenance, repair or replacement of any memorial, tomb or mausoleum erected or placed upon a lot, nor the performing of any special or unusual work in the cemeteries.
(Code 1968, § 502.4(c))

Sec. 7-49. Additional care may be purchased.

(a) *By agreement.* Lot owners desiring additional care of their lots may arrange for such care with the superintendent of cemeteries who shall give an estimate of the cost of the work desired. This care may be provided for ~~by annual payments made by the lot owner or~~ by the establishment of a trust fund under such agreement as may be determined between the superintendent and the lot owner. The limitations of this type of care may vary according to the capabilities of the individual cemeteries.

By bequest. In addition to the foregoing, the superintendent of cemeteries is authorized to accept testamentary bequests for additional lot care including, but not limited to, trust funds, upon his determination that the purpose of the bequest can be financially and lawfully implemented. In the event that it

cannot be so implemented, the superintendent shall notify the estate's representative to that effect.

(Code 1968, § 502.4(d); Ord. No. 16-90, 6-18-90)

Sec. 7-50. Investment of trust and care funds.

All care funds held by the city, whether trust or perpetual care will be invested by the city as provided by law and will be expended only as provided by the trust or perpetual care agreement.

(Code 1968, § 502.4(e))

Sec. 7-51. Semi-active cemeteries.

Semi-active cemeteries of the city will be maintained as prescribed by the parks authority.

(Code 1968, § 502.4(f))

Sec. 7-52. Who may provide care for lots.

No person except a lot owner, ~~his or her~~ authorized representative, or an employee of the cemeteries, acting under the direction of the superintendent of cemeteries, is permitted to enter the cemeteries for the purpose of caring for lots without special permission of the superintendent of cemeteries secured in advance. The Management reserves the right to give authorization to any workmen, other than employees of the cemetery, before they may do work in any cemetery. Burial Right holders may have certain work done in accordance with these Rules and Regulations at their own expense upon application to the Management; prices to be agreed upon and paid before said work is done.

All outside workers must submit a Certificate of Insurance for review before commencing any work in the cemetery.

(Code 1968, § 502.4(g))

Sec. 7-53. Lot boundaries not to be defined.

No new lot or grave shall be defined by a fence, rail, curb, hedge, trees or shrubs for the purpose of describing its corners or boundaries.

(Code 1968, § 502.4(h))

Sec. 7-54. Reserved.

Sec. 7-55. Reserved.

Sec. 7-56. Reserved.

Sec. 7-57. Reserved.

Sec. 7-58. Reserved.

Sec. 7-59. Reserved.

Sec. 7-60. Reserved.

Sec. 7-61. Reserved.

Sec. 7-62. Reserved.

Sec. 7-63. Reserved.

Sec. 7-64. Reserved.

Sec. 7-65. Reserved.

ARTICLE IV. INTERMENTS*

*State law reference(s)--Disposal of bodies, 13 M.R.S.A. § 1032.

Sec. 7-66. Funerals in charge of cemeteries.

All funerals entering the cemeteries ~~shall be under the direction of a funeral director who~~ shall abide by the rules and regulations of the respective cemetery, and ~~funeral directors~~ upon arrival at a cemetery must present to the superintendent of cemeteries the necessary burial permit from the city clerk.
(Code 1968, § 502.5(b))

Sec. 7-67. Previous notices required for interments, etc.

The right is reserved by the cemeteries to insist upon at least ~~twenty-four~~ thirty-six (2436) hours' notice of any interment and at least one (1) week's notice of any disinterment or removal. The cemeteries reserve the right to postpone

interment/disinterment time due to acts of nature, God, civil and national emergencies.
(Code 1968, § 502.5(i))

Sec. 7-68. Times for interments.

The cemeteries will be open for interments from 8:00 a.m. to 4:30:00 p.m., Monday through Friday. Requests for openings ~~prior to 10:00 a.m.~~ on Mondays must reach the cemetery offices before noon on Friday. Any services extending beyond or scheduled after these hours, or Saturday interments, will require an additional charge above the regular interment fee. No interments will be made on Sundays or legal holidays, except on proclamation of an emergency.
(Code 1968, § 502.5(a))

Sec. 7-69. Interments to be authorized by lot owners.

All orders for interments in lots must be signed by the owner of the lot, or his or her authorized representative. When this is impossible because of absence from the city, telegraphic ? permission will be accepted in lieu of signed authorization.
(Code 1968, § 502.5(d))

Sec. 7-70. Number of interments in single grave.

No interment of two (2) or more bodies shall be made in one (1) grave, except in the case of mother and child, or two (2) infants, buried in one (1) casket. Further variation may be made in the case of cremations within family lots subject to the placing of markers and upon prior approval of the superintendent of cemeteries. One body and one cremains or 2 cremains will be allowed in a single full size grave.
(Code 1968, § 502.5(e))

Sec. 7-71. Location within lot to be designated by owner.

When an interment is to be made in a lot, the location of such interment shall be designated by the lot owner, or his or her authorized representative. Should he or she fail or neglect to make such designation, the cemeteries reserve the right to make the interment in a location designated by the superintendent of cemeteries. The cemeteries shall not be

responsible for errors from telephone information lacking precise and proper instructions as to the particular space, size of grave, and location in a lot, where interment is desired.
(Code 1968, § 502.5(f))

Sec. 7-72. Caskets opened only when.

Once a casket containing a body is within the confines of a cemetery, it shall not be opened except by a funeral director or his or her assistants or on an order signed by a court of competent jurisdiction.
(Code 1968, § 502.5(c))

Sec. 7-73. Graves opened only when.

Once an interment has been made, graves will be opened only by officials and employees of the cemeteries in the sole and exclusive judgment of the superintendent of cemeteries that such opening is proper, necessary, and duly authorized or when the cemetery is directed to make a disinterment by an ~~older~~ order of a court of competent jurisdiction and a certified copy of such order has been filed with the superintendent of cemeteries. In all cases the responsibility of the cemetery shall be limited to opening of the grave only and the actual disinterment must be made by the person authorized to do so.
(Code 1968, § 502.5(g))

Sec. 7-74. Outside containers required.

In order to maintain a high standard of care and to eliminate sunken graves caused by the collapse of wooden boxes, all burials must be made in outside containers constructed of natural stone, or of metal, or of reinforced concrete, or approved synthetics. All such containers must be made and installed so as to meet the specifications established by the superintendent of cemeteries. Outside containers may be procured from any source provided they meet the established specifications. Cement liners may be purchased and installed through the cemeteries, if so desired.
(Code 1968, § 502.5(h))

Sec. 7-75. Reserved.

Sec. 7-76. Reserved.

Sec. 7-77. Reserved.

Sec. 7-78. Reserved.

Sec. 7-79. Reserved.

Sec. 7-80. Reserved.

Sec. 7-81. Reserved.

Sec. 7-82. Reserved.

Sec. 7-83. Reserved.

Sec. 7-84. Reserved.

Sec. 7-85. Reserved.

ARTICLE V. PLANTS, SHRUBS AND FLOWERS*

*Cross reference(s)--Vegetation generally, Ch. 29.

Sec. 7-86. Responsibility of cemeteries.

The cemeteries will undertake to maintain, to the extent practicable, the planting of trees and shrubs to preserve its landscape features, but will not undertake to maintain individual plantings, or urns of plants, except when so contracted to do so by special arrangement.
(Code 1968, § 502.6(a))

Sec. 7-87. Plantings; permission may be granted.

No individual beds of shrubbery or flowers shall be permitted on the grounds of the cemeteries, except by special permission of the superintendent of cemeteries, and request for such permission should be accompanied by a scaled sketch of the proposed planting, showing the location and name of the proposed plantings.

(Code 1968, § 502.6(b))

Sec. 7-88. Care of evergreens where authorized.

In the monumental sections of the cemeteries where certain areas allow the planting of evergreens, dwarf Alberta spruce and dwarf arborvitae are the only evergreens allowed. All evergreens and shrubs must be kept trimmed to within six (6) inches of the lot borders. The cemeteries will, to the extent practicable, trim all evergreens properly placed on lots. Any trees or shrubs exceeding the six (6) inch mark will be severely cut back or removed.

(Code 1968, § 502.6(c))

Sec. 7-89. Plantings on single lots, etc.

No shrubs or evergreens will be permitted on a single grave lot. No plantings of any shrubs or trees will be permitted at individual headstones or flush markers. Plantings on two (2) grave or larger plots must first be approved by the superintendent of cemeteries. Planting of annuals is allowed in certain sections of the cemetery. Please contact Office for details.

(Code 1968, § 502.6(d))

Sec. 7-90. Floral displays on graves.

Only one (1) floral display is permitted on a grave at any one (1) time. Exceptions to this rule will be permitted during one (1) week prior to and one (1) week following Memorial Day and at the time of interment. No glass jars, unsightly metal receptacles or breakable flower containers shall be placed on lots. True floral containers, recessed holders and rustic baskets are recommended.

(Code 1968, § 502.6(e))

Sec. 7-91. Regulations covering Memorial Park or nonmonumental areas.

In the Memorial Park or nonmonumental sections of the cemeteries, the primary aim is to create a beautiful expanse of park-like grounds, bordered by appropriate shrubs, trees and gardens. Within such areas all markers shall be flush with the surface. No individual plants within the burial areas will be

permitted. Only one (1) floral display shall be permitted on a grave at any one (1) time, with the exceptions as set forth under section 7-90. Except for recessed containers, all plant and flower holders shall be placed upon the individual marker. In the absence of a marker, permission may be granted for the placement of memorial flowers or plants above ground on the normal location of a marker space. Cooperation of lot owners in this area will permit better maintenance and opportunities to improve the appearance and quality of the turf within these areas.

(Code 1968, § 502.6(f))

Sec. 7-92. Right of cemeteries to remove flowers and plants.

The cemeteries shall have the right to remove all floral designs, flowers, weeds, trees, shrubs, plants, or herbage of any kind from the cemeteries as soon as, in their judgment, they become unsightly, dangerous, detrimental, or diseased, or when they do not conform to the standard maintained in the cemeteries.

(Code 1968, § 502.6(g))

Sec. 7-93. Cemeteries not responsible for flowers and plantings.

The cemeteries shall not be responsible for floral pieces, baskets or frames in which or to which floral pieces are placed or attached beyond their acceptance for services held in the cemeteries, and shall not be responsible for frozen plants or herbage of any kind, or for plantings damaged by the elements, thieves, vandals or by other causes beyond their control. The cemeteries reserve the right to prevent the removal of any flowers, floral designs, trees, shrubs, plants or herbage of any kind without prior approval.

(Code 1968, § 502.6(h))

Sec. 7-94. Removal of unsightly vases, urns.

The cemeteries reserve the right to remove from lots vases or urns not properly painted or otherwise cared for or not filled with plants by June thirtieth.

(Code 1968, § 502.6(i))

Sec. 7-95. Reserved.

Sec. 7-96. Reserved.
Sec. 7-97. Reserved.
Sec. 7-98. Reserved.
Sec. 7-99. Reserved.
Sec. 7-100. Reserved.
Sec. 7-101. Reserved.
Sec. 7-102. Reserved.
Sec. 7-103. Reserved.
Sec. 7-104. Reserved.
Sec. 7-105. Reserved.

ARTICLE VI. MONUMENTS, TOMBS, MAUSOLEUMS AND
OTHER STRUCTURES*

*State law reference(s)--Mausoleums and vaults, 13 M.R.S.A. § 1341 et
seq.

Sec. 7-106. One monument per lot permitted; one marker per grave
permitted.

The owner of any lot shall have the right to erect thereon
any proper stone or monument upon authorization by the
superintendent of cemeteries. Only one (1) monument shall be
permitted on a lot which must be located in the center or center
rear, unless special permission is granted by the superintendent
for placing it otherwise. Only one (1) individual marker per
grave is allowed in any of the cemeteries. In certain areas,
however, a monument and individual headstones are permitted.
(Code 1968, § 502.7(a))

Sec. 7-107. Site and plans of structures to be approved.

Tombs, vaults or mausoleums can be constructed only in such places and be of such design as shall be approved by the superintendent of cemeteries. Complete plans and specifications must be furnished when request for permission to build is made.
(Code 1968, § 502.7(b))

Sec. 7-108. Single apartments required.

No bodies shall be placed in tombs, vaults or mausoleums except in hermetically sealed, single apartments in a manner satisfactory to the superintendent of cemeteries.
(Code 1968, § 502.7(c))

Sec. 7-109. Materials, size and design of structures.

No monument or other structure on a lot above ground shall be constructed of any other material than cut marble, granite, natural stone, or real bronze. In general, no monument or marker shall exceed a base size from end to end of sixty (60) percent of the width of the lot. However, in certain areas of the cemeteries, the specific design of particular sections has been planned to accept a certain type or size marker. These sections are familiar to local monument dealers, and more detailed information may be had at the offices of the cemeteries concerning such requirements or specifications.
(Code 1968, § 502.7(d))

Sec. 7-110. Foundations required; by whom constructed.

No stone, monument, tomb, vault or other superstructure shall be erected until a suitable foundation is laid. All foundations for monuments shall be not less than four (4) feet in depth. Deeper foundations will be used when deemed advisable by the superintendent of cemeteries. As a guarantee of good work, for the general welfare of the cemeteries, and for protection to lot owners, the cemeteries reserve the right to construct all foundations for such structures. The superintendent of cemeteries may, however, if deemed advisable, authorize under his supervision the construction of such foundation by other qualified contractors.
(Code 1968, § 502.7(e))

Sec. 7-111. Perpetual care required.

All tombs, mausoleums or vaults constructed after August 19, 1970, shall have such provision made for perpetual care as is adequate in each case.

(Code 1968, § 502.7(f))

Sec. 7-112. Reserved.

Sec. 7-113. Reserved.

Sec. 7-114. Reserved.

Sec. 7-115. Reserved.

Sec. 7-116. Reserved.

Sec. 7-117. Reserved.

Sec. 7-118. Reserved.

Sec. 7-119. Reserved.

Sec. 7-120. Reserved.

Sec. 7-121. Reserved.

Sec. 7-122. Reserved.

ARTICLE VII. RULES OF CONDUCT*

*Cross reference(s)--Offenses and miscellaneous provisions, Ch. 17.

Sec. 7-123. Trespass.

No person other than a cemetery employee on authorized duties shall enter any cemetery after the hours or times specified in section 7-2 and any person so entering shall be guilty of trespass.

(Code 1968, § 502.2(b)(1); Ord. No. 591-7, § 1, 11-3-75)

Sec. 7-124. Malicious mischief.

No person shall destroy, mutilate, deface, injure or remove any tomb, monument, gravestone, marker or other structure placed within any cemetery, or any fence, railing, or other work for the protection or ornamentation of any tomb, monument, gravestone, marker or other structure aforesaid, or any cemetery lot within any cemetery.

(Code 1968, § 502.2(b)(3); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-125. Manner of travel by pedestrians.

Persons visiting the cemeteries shall use only the avenues, walks and alleys provided, and no person shall walk upon or across lots or lawns unless necessary and where such avenues, walks or alleys are not provided. The city expressly disclaims responsibility for any injury sustained by any person violating this section.

(Code 1968, § 502.2(b)(2); Ord. No. 59175, § 1, 11-3-75)

Sec. 7-126. Manner of travel by vehicles.

Motor cars and vehicles must be kept under complete control at all times. When meeting a funeral cortege, they must stop until the procession passes. They must not pass a funeral cortege, either stopped or in motion. Mufflers must not be opened, nor the horn sounded within the cemeteries, and all such vehicles shall comply with the following rules:

- (a) Maximum speed limit: Fifteen (15) miles per hour.
- (b) No vehicle may be driven or parked across or upon any grave, lot or lawn.
- (c) Parking or leaving any vehicle on any road or drive in such a way as to prevent any car or vehicle from passing is prohibited and a violation of this section will be cause for the removal of such vehicle by the superintendent of cemeteries at the owner's expense.

Making a complete or partial reverse turn of any vehicle on any road or drive is forbidden.

(Code 1968, § 502.2(b)(4); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-127. Commercial vehicles prohibited.

No commercial vehicle shall be permitted within the limits of any cemetery except those directly involved in the business of the cemetery. The words "commercial vehicle" as used in this particular subsection shall mean a motor vehicle which bears a "Com" license plate as issued by the state or motor vehicle bearing commercial plates issued by any other state.
(Code 1968, § 502.2(b)(5); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-128. Alcoholic beverages prohibited.

No person shall be in possession of or consume any alcoholic beverage within any cemetery.
(Code 1968, § 502.2(b)(6); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Alcoholic beverages generally, Ch. 3.

Sec. 7-129. Commercial enterprises prohibited.

No person shall sell or offer for sale, hire, lease or rent any object, merchandise, property, service or other thing in any cemetery nor shall any person engage in any commercial enterprise in any cemetery except such as is directly involved in the business of the cemetery.
(Code 1968, § 502.2(b)(7); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-130. Solicitations prohibited.

Solicitations, charitable, political or otherwise are prohibited in any cemetery.
(Code 1968, § 502.2(b)(8); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Peddlers and solicitors generally, Ch. 19.

Sec. 7-131. Litter.

No person shall deposit in any cemetery any garbage, sewage, refuse, waste, vegetables, foodstuffs, boxes, tin cans, paper, or other litter or waste material or obnoxious material, except in containers designed for such purposes.
(Code 1968, § 502.2(b)(9); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Garbage, wastes and junk generally, Ch. 12.

Sec. 7-132. Disorderly conduct prohibited.

No person shall behave in a loud, indecent or disorderly manner in any cemetery or except as provided by section 7-138, create any unnecessary disturbance therein.
(Code 1968, § 502.2(b)(10); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Offenses against public peace, § 17-16 et seq.

Sec. 7-133. Sports, games prohibited.

No person shall conduct or participate in any sport, game or contest in any cemetery, except ice skating.
(Code 1968, § 502.2(b)(11); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Parks, recreation and public buildings, Ch. 18.

Sec. 7-134. Minors prohibited in cemeteries; exception.

Children under fifteen (15) years of age are not permitted within the cemeteries, except when accompanied by their parents, guardian or other adult person or by a written note of permission signed by a parent or guardian, giving their telephone number or address.
(Code 1968, § 502.2(b)(12); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-135. Unleashed animals prohibited.

No person shall cause or permit any animal or dog owned by him or her, in his or her custody, or under his or her control, to go at large within any cemetery unless on the walkways and roadways only and held in leash by a responsible person, the leash not to exceed eight (8) feet in length, except as otherwise provided in section 5-15.1 of this Code for control of dogs in city-owned cemeteries.
(Ord. No. 176-96, § 8, 3-4-96)

Editor's note--Pursuant to the adoption of § 5-15.1 of this Code, § 7-135, which prohibited unleashed animals in cemeteries, has been deleted, treated as repealed by said § 5-15.1. Formerly, § 7-135 derived from § 502.2(b)(13) of the city's 1968 Code as amended by Ord. No. 591-75, § 1, adopted Nov. 3, 1975. Subsequently, Ord. No. 176-96, § 8, adopted Mar. 4, 1996, enacted similar new provisions as herein set out.

Sec. 7-136. Unauthorized items removed from lots.

~~The placing of boxes, shells, toys, ornaments, chairs, settees or similar unauthorized items upon lots will not be permitted, and the superintendent of cemeteries reserves the right to remove any such unauthorized items.~~ The use of shells, stones, lawn ornaments, statues, , glass containers, solar lights, shepherds crooks, tin cans and other similar items is strictly prohibited. No Lawn ornament of any kind as defined by the Superintendent of Cemeteries or his/her designee shall be allowed. The Superintendent reserves the right to remove without notice any planting or object that is in violation of these regulations, or in the opinion of the Management is a hazard to its employees or injurious to the general appearance of the cemetery.

(Code 1968, § 502.2(b)(14); Ord. No. 591-75, § 1, 11-3-75)

Sec. 7-137. Signs prohibited.

No sign, notice or advertisement of any kind except directional, identification signs placed by cemetery personnel shall be permitted in any cemetery and the superintendent of cemeteries shall remove same.

(Code 1968, § 502.2(b)(15); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Signs and billboards generally, § 14-366 et seq.

Sec. 7-138. Firearms, fireworks, weapons, etc., prohibited.

The bringing of firearms into any cemetery, except by a military escort, is prohibited. The discharging of, or carrying, offensive weapons of any type, or the hurling of rocks or pellets, or the discharging of fireworks therein is strictly prohibited. This is not to be construed as prohibiting ceremonial volleys with blank charges by properly supervised honor guards as a tribute to a deceased person if such ceremonial undertaking has been previously scheduled with the superintendent of cemeteries.

(Code 1968, § 502.2(b)(16); Ord. No. 591-75, § 1, 11-3-75)

Cross reference(s)--Fire prevention and protection, Ch. 10; weapons generally, § 17-41 et seq.

Sec. 7-139. Fishing prohibited.

In cemeteries containing natural or artificial ponds, the act of fishing or carrying tackle is prohibited.

(Code 1968, § 502.2(b)(17); Ord. No. 591-75, § 1, 11-3-75)

Order 268-14/15
Tab 7 6-1-15

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD I. 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 TEMPORARY OPERATING AGREEMENT
BETWEEN THE CITY OF PORTLAND AND UBER**

ORDERED, that the Temporary Operating Agreement between the City of Portland and Uber is approved in substantially the form attached hereto; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Acting City Manager to execute said document and any other related documents necessary or convenient to carry out the intent of said documents.

CITY OF PORTLAND

MEMORANDUM

TO: Chairman Marshall and Members of the Portland Transportation, Sustainability & Energy Committee
CC: Michael J. Sauschuck, Acting City Manager
FROM: Danielle P. West-Chuhta, Corporation Counsel 
DATE: May 15, 2015
RE: Temporary Operating Agreement

As requested at your last meeting, attached please find the Temporary Operating Agreement ("TOA") which has been drafted/reviewed by the attorneys for Uber and the City. The highlights of the TOA are as follows:

- 1) Requires insurance coverage (at the same level as required under Maine State law) to be in place;
- 2) Requires annual vehicle inspections;
- 3) Requires records to be maintained by Uber and provided to the City upon request;
- 4) Makes Uber vehicles subject to the Jetport Ground Transportation Rules and Regulations;
- 5) Requires 10 year local, state and national background checks to be conducted;
- 6) Requires a 24-hour hotline for clients to contact if they have an issue;
- 7) Allows the City to enforce the provisions of the TOA, and require compliance with the rules set forth therein (including vehicle inspections, cleanliness, insurance, etc.); and
- 8) Requires the payment of \$10,000 as the licensing fee by Uber.

If you have any questions, the Uber attorney and I will be present at your meeting on May 20th to discuss the details of this TOA in more detail.

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council

FROM: Transportation, Sustainability & Energy Committee

DATE: 5/21/2015

DISTRIBUTION: City Manager, Mayor, Sonia Bean, Danielle West-Chuhta,
Nancy English, Julie Sullivan

SUBJECT: Uber Temporary Operating Agreement

SPONSOR: Transportation, Sustainability & Energy Committee, Councilor David A. Marshall, Chair

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading June 1, 2015 Final Action June 15, 2015

Can action be taken at a later date: _____ Yes X No (If no why not?)

A fee of \$10,000 will be paid to the City as part of this proposed agreement.

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY OF ISSUE (Agenda Description)

The City's Transportation, Sustainability & Energy Committee has been considering how to regulate Transportation Network Companies which provide customers with ride by the use of an "App" on a cell phone. Rules remain under consideration. But while those decisions are being reviewed, the City's Corporation Counsel has worked with representatives of Uber to draft a Temporary Operating Agreement, imposing rules on that company that it is willing to abide by.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

Transportation Network Companies ("TNCs") are not yet regulated under the Rules of the Jetport or under the City Code Ordinances regulating Taxis and liveries. TNCs are operating in the City without requirements for insurance or inspections, among other things. The City Council wishes to bring the TNCs under the rules and regulations of other persons and businesses that offer rides in the City limits.

III. INTENDED RESULT

To regulate the presently unregulated Transportation Network Company, Uber, with insurance requirements, inspection requirements and other rules now followed by taxis licensed by the City of Portland.

IV. COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

A fee of \$10,000 will be paid to the City as part of this proposed agreement.

VI. STAFF ANALYSIS

Corporation Counsel has reviewed the proposed agreement and approves it for form.

VII. RECOMMENDATION

The Transportation, Sustainability & Energy Committee, on a unanimous 4 - 0 vote on May 20, 2015, recommended the approval of the Temporary Operating Agreement in the draft attached, for consideration by the full City Council.

VIII. LIST ATTACHMENTS

Order

Draft of Temporary Operating Agreement

Danielle West-Chuhta Memorandum dated May 15, 2015, Temporary Operating Agreement for Uber and Other Transportation Network Companies

Prepared by: Danielle West-Chuhta

Date: 5/21/2015

TEMPORARY OPERATING AGREEMENT

This Temporary Operating Agreement (hereinafter "Agreement") is entered into this [DAY] day of [MONTH], 2015, between CITY OF PORTLAND, a political subdivision of the State of Maine, whose address is 389 Congress Street, Portland, Maine 04101 (hereinafter "City"), and RASIER, LLC, a Delaware limited liability company and subsidiary of Uber Technologies, Inc. commonly referred to as "Uber", whose address is 1455 Market Street, San Francisco, California 94103 (hereinafter "Rasier").

WHEREAS, Rasier is a transportation network company (TNC) that desires to continue operating in Portland; and

WHEREAS, notwithstanding the above, City is currently reviewing its Vehicle-For-Hire (VFH) regulations as they pertain specifically to TNCs and agrees to allow Rasier to operate in the City of Portland during this review, subject to the terms and conditions set forth below.

NOW, THEREFORE:

I. City and Rasier agree as follows:

A. The following definitions shall apply to this Agreement:

"Rasier Partner" means an individual who:

1. Receives connections to potential passengers and related services from a TNC in exchange for payment of a fee to the TNC; and
2. Uses a Rasier Partner Vehicle to offer or provide TNC Services requested through the Rasier digital platform in return for compensation or payment of a fee.

"Rasier Partner Vehicle" means a personal or noncommercial vehicle that is used by a Rasier Partner and is

1. Owned, leased or otherwise authorized for use by the Rasier Partner; and
2. Not a taxicab, limousine, or for-hire vehicle.

"Transportation Network Company" (TNC) means an individual, partnership, association, corporation, or other entity that uses a digital platform to connect passengers to drivers who use a personal or other noncommercial vehicle to provide TNC Services.

"Transportation Network Company (TNC) Services" means transportation of a passenger between points chosen by the passenger and prearranged with a Rasier Partner through the Rasier digital platform. TNC services begin when a Rasier Partner accepts a request for transportation received through the Uber app,

TNC services continue while the Rasier Partner transports the passenger in the Rasier Partner's vehicle, and terminate when the passenger reaches his or her intended destination and exits the Rasier Partner's vehicle.

B. Rasier does not waive its right to contest the applicability of any future City ordinance, laws or rules to Rasier, the Rasier platform, or Rasier Partners offering services through the Rasier platform.

II. Rasier agrees as follows:

A. Insurance.

Insurance. Rasier and a Rasier Partner shall comply with all applicable insurance requirements mandated by Maine laws pertaining to insurance, including but not limited to, automobile liability insurance. The following is also required and may be provided by an authorized or an eligible surplus lines insurer:

1. When logged into platform but not providing TNC Services: The following automobile liability insurance requirements shall apply during the time that a Rasier Partner is logged into the Uber platform and available to receive requests for transportation but is not performing TNC Services:
 - (a) Automobile liability coverage that provides at least the minimum coverage requirements per 29-A M.R.S. § 1605 and 24 M.R.S. § 2902.
 - (b) Automobile liability insurance in the amounts required in subparagraph (a) of Section 1 shall be maintained by Rasier and provide coverage in the event the Rasier Partners' own personal automobile liability policy excludes coverage according to its policy terms or does not provide coverage of at least the requirements in subparagraph (a) of Section 1.
2. When providing TNC Services: The following automobile liability insurance requirements shall apply while a Rasier Partner is providing TNC Services:
 - (a) Provides primary automobile liability insurance that recognizes the Rasier Partner's provision of TNC Services;
 - (b) Provides automobile liability insurance of at least \$1,000,000 for death, bodily injury and property damage;
 - (c) Provides uninsured and underinsured motorist coverage to the extent required by 24-A M.R.S. § 2902; and
 - (d) Provides medical payment coverage to the extent required by 29-A M.R.S. § 1605-A.

- (e) The coverage requirements of this Part II(A) may be satisfied by any of the following: Automobile liability insurance maintained by the Rasier Partner; automobile liability insurance maintained by Rasier; or any combination of the immediately preceding two.
3. In any claims coverage investigation, Rasier shall cooperate with a liability insurer that also insures the driver's personal vehicle. Rasier shall include the precise dates and times at which an incident occurred that involved the Rasier Partner while the Rasier Partner was logged into their digital network.
4. Insurance Deficiency. In every instance where insurance maintained by a Rasier Partner to fulfill the above insurance requirements has lapsed, failed to provide the required coverage, denied a claim for the required coverage or otherwise ceased to exist, insurance maintained by Rasier shall provide the coverage required by this section beginning with the first dollar of a claim.
5. Primary Coverage. Rasier shall submit documentation to City that it has secured primary automobile liability insurance coverage in the amount of at least \$1,000,000 per occurrence for the driver for incidents involving the driver while providing TNC services. Rasier's policy shall provide blanket coverage for non-owned automobiles active on the Rasier platform.
6. Certificate of Insurance/Additional Insured. Within fourteen (14) business days of executing this Agreement, Rasier shall provide to the City a certificate of insurance for the policy(ies) required herein, naming Rasier as the insured. The policy(ies) shall be accompanied by a commitment from the insurer that such policy will not be canceled, modified, or coverage reduced without at least thirty (30) days' prior notice to the City.
7. No contractual hold harmless required in the terms of service shall be used to evade the insurance requirements of this agreement.

B. Background Check. Prior to allowing a Rasier Partner to act as a Rasier Partner and accept trip requests from its digital network, and annually thereafter, Rasier shall conduct a local, state and federal criminal background check and obtain and review the criminal history in accordance with M.E. Rev. Stat. Title 10: Chapter 209-B for each potential Rasier Partner to determine whether that person has been convicted within the last ten (10) years of the following offenses:

1. DUI or other drug related driving violations or severe infractions;
2. Hit and Runs;
3. Fatal accidents;
4. History of reckless driving;
5. Violent crimes;
6. Sexual offenses;
7. Gun related violations; and
8. Resisting/evading arrest.

If it is determined that a person has been convicted of any of the foregoing, that person shall not be permitted to be a Rasier Partner. Rasier will maintain electronic records of such criminal history report for the duration of this Agreement and, if requested, Rasier shall make these records available for inspection to the City at a mutually agreed setting.

- C. Driver History Report. Prior to permitting a person to act as a Rasier Partner and annually thereafter, Rasier shall obtain and review a traffic/driving history report for such person. Any person with: (1) more than three (3) moving violations in the three-year period prior to such check; or (2) a major violation in the three-year (3) period prior to such check (including, but not limited to, attempting to evade the police, reckless driving, or driving on a suspended or revoked license) shall not be permitted to be a Rasier Partner. Rasier will maintain electronic records of such driving history reports for the duration of this Agreement and, if requested, Rasier shall make these records available for inspection to the City at a mutually agreed setting.
- D. Driver Requirements. Rasier shall ensure that all Rasier Partners are at least twenty-one (21) years of age; and possess a valid driver's license, proof of vehicle registration and current automobile liability insurance. Rasier must annually secure physical or digital proof of Rasier Partner's personal insurance. Rasier shall maintain accurate and up-to-date records of all Rasier Partners providing services through the Rasier platform, and, if requested, Rasier shall make these records available for inspection to the City at a mutually agreed setting.. Rasier shall also take reasonable steps to notify Rasier Partners of their obligations under this Agreement.
- E. Driver Drug/Alcohol and Tobacco Use. Rasier shall implement a zero-tolerance policy on the use of drugs or alcohol applicable to any Rasier Partner, provide notice of the policy on its website, as well as the procedures to report a driver the passenger reasonably suspects was under the influence of drugs or alcohol during the course of the ride, and immediately suspend said driver upon receipt of a passenger complaint alleging a violation of the policy. The suspension shall last the duration of the investigation. Tobacco use shall also not be permitted while the Rasier Partner is available on Raiser's digital platform.
- F. Driver/Vehicle Identification. Once a passenger and a Rasier Partner have been matched, Rasier's digital platform shall display for the passenger the name and photograph of the Rasier Partner as well as a description of the make, model and license plate number of the Rasier Partner Vehicle.
- G. Vehicles Used; Safety Inspection. Rasier Partners' Vehicles shall be street-legal four (4)-door vehicles that are no more than ten (10) model years of age. No Rasier Partner Vehicle shall display a top light or electronic identification signage and shall not be marked with the word "taxi", "taxicab" or "cab." All vehicles must have an annual safety inspection in accordance with the State of Maine's requirements for personal vehicles. Within fourteen (14) business the effective date of this Agreement or of being activated on Rasier's digital platform, all Rasier Partner

vehicles currently operating shall have and pass a safety inspection conducted by an automobile technician that is certified by the National Institute for Automotive Service Excellence (ASE). Rasier Partners shall keep proof of their vehicle inspection with them at all times in their Rasier Partner Vehicle and produce a copy of same upon request by the City.

Such inspection/procedure shall, at a minimum, include an inspection of the following components:

- (1) Foot brakes;
- (2) Emergency parking brake;
- (3) Suspension/steering mechanism;
- (4) Windshield;
- (5) Rear window and other glass;
- (6) Windshield wipers;
- (7) Headlights;
- (8) Taillights;
- (9) Turn indicator lights;
- (10) Brake lights;
- (11) Front seat adjustment mechanism;
- (12) Doors (open/close/lock);
- (13) Horn;
- (14) Speedometer;
- (15) Bumpers;
- (16) Muffler and exhaust system;
- (17) Condition of tires, including tread depth;
- (18) Interior and exterior rear view mirrors; and
- (19) Safety belts for driver and passengers.

- H. Customer Service. Rasier shall maintain a website and provide a twenty-four (24)-hour customer service telephone number or email address. Rasier shall also implement a rating system on its digital platform to monitor the quality of the service and cleanliness of the vehicle, and, if requested, Rasier shall make these records available for inspection to the City at a mutually agreed setting.
- I. Service of Process. Rasier shall maintain an agent for service of process in Maine.
- J. Passenger Receipt. Upon completion of a trip, Rasier shall transmit an electronic receipt to the passenger's email address or mobile application documenting the origination and destination of the trip and a description of the total amount paid, if any.
- K. No Solicitation or Street-Hails. Rasier Partners shall only accept rides booked through a digital platform and shall not solicit or accept street-hails.
- L. Rate Disclosure. It is understood that Rasier Partners may offer service for compensation, no-charge, or suggested compensation. Rasier shall disclose rates used to determine any compensation or suggested compensation on its app and

website. Before a trip is accepted, a rider must have the option to view and agree to the estimated fare.

- M. Surge-pricing. When Rasier utilizes surge-pricing through its software application in areas and times of high demand, the software application must: (1) provide clear and visible indication that dynamic pricing is in effect prior to when a potential ride requests a ride; (2) include a feature that requires riders to confirm that they understand that dynamic pricing will be applied in order for the ride request to be completed; and (3) provide a fare estimator that enables the user to estimate the cost under dynamic pricing prior to requesting the ride.
- N. Taxicab Zones. Rasier Partners shall not use any marked taxicab zones.
- O. Jetport Operating Requirements. Rasier acknowledges that the City owns and operates the Portland Jetport ("Jetport"). Nothing in this agreement shall prevent the Jetport from promulgating rules and regulations for Rasier and Rasier Partners operating on its property.
- P. Audit. Rasier must maintain accurate records as required under this Agreement. Upon the City's request, and no more than semi-annually, Rasier shall make these records available for inspection to the City for purposes of conducting an audit of Rasier's compliance with this Agreement. These audits shall occur at a mutually agreed setting.
- Q. Records. The City may inspect, at a mutually agreed setting, those records held by Rasier whose review is specifically necessary for the investigation and resolution of a complaint.
- R. Confidentiality. The City shall not disclose any records obtained from Rasier pursuant to this Agreement unless the City is required to do so by applicable law or court order or Rasier has consented to such release. In the event that a third party submits a request to the City for such records, the City shall: (1) assert applicable exemptions to the request as set forth in the Maine Freedom of Access Act; and (2), upon receipt of such request, notify Rasier that it has received a request and inform Rasier of whether it will release the requested record(s) so that Rasier has an opportunity to take steps to prevent disclosure.
- S. Payment to City. Within ten (10) days from the effective date of this Agreement, Rasier shall pay to the City ten thousand dollars (\$10,000.00) to cover any administrative and regulatory costs associated with this Agreement and Rasier's operations in the City for one year from the effective date of this Agreement. In the event this Agreement is not extended beyond October 30, 2015, Rasier's payment shall be credited toward any fee that it is required to pay under a subsequent Agreement or City ordinance or legislation governing TNC operations in the City such that Rasier's \$10,000 payment will apply toward one (1) year of operations from the effective date of this Agreement.
- T. Accessibility. Rasier shall not allow Raiser Partners to refuse to accept a passenger

who is disabled, or to charge a higher fare or additional fee to a person who is disabled, based on the person's disability, use of a support animal, wheelchair, crutches, or other mobility assistance device.

- U. Compliance. It is understood and agreed that Rasier and Rasier Partners are not agents, servants or employees of the City.

III. City agrees as follows:

- A. Rasier may operate in the City of Portland so long as Rasier and Rasier Partners comply with the terms and conditions set forth in this Agreement.
- B. City will not enforce the provisions in Chapter 30 of its Code of Ordinances or any other applicable Vehicle-for-Hire regulations against Rasier and Rasier Partners during the term of this Agreement, unless such enforcement stems from a violation of any of the provisions of this Agreement. This paragraph does not apply to any rules and regulations that the City/Jetport promulgates with regard to Rasier or Rasier Partner's operating at the Jetport.

IV. General Provisions:

- A. Effective Date/Term. This Agreement goes into effect on the date of approval by the City Council on behalf of the City and continues in full force and effect until and through October 30, 2015, unless otherwise extended by both parties in writing.
- B. Termination. Notwithstanding anything contained herein to the contrary, either party may, in its sole discretion with or without cause, terminate this Agreement upon thirty (30) days' written notice to either party.
- C. Enforcement. City shall have the authority to enforce the requirements of this Agreement. Failure to adhere to the requirements of this Agreement by Rasier or any Rasier Partner may result in, among other things, fines or penalties in an amount equal to the fines or penalties for similar violations under the City's VFH Code, or termination of this Agreement, at the City's discretion.
- D. Entirety of Agreement. This Agreement constitutes the entire Agreement between the City and Rasier. Any previous Agreement, assertion, statement, understanding, or other commitment before the date of this Agreement, whether written or oral, shall have no force or effect. No agreement, assertion, statement, understanding, or other commitment during the term of this Agreement, or after the term of this Agreement, shall have any legal force or effect unless properly executed in writing by Rasier and the City.

DATED: _____

ATTEST:

[NAME]

[TITLE]

PORTLAND, MAINE BY ITS
CITY MANAGER

By: _____

XXXXXX, CITY MANAGER

DATED: _____

XXXXXX

RASIER, LLC BY ITS _____

DATED: _____ ATTEST:

RASIER, LLC

By: _____

Type or Print Name:

Title/Position:

*Order 269-14-15
Tab 8 6-1-15*

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

**ORDER ADOPTING DEVELOPMENT PROGRAM FOR
THE PORTLAND DOWNTOWN DISTRICT
FOR FISCAL YEAR 2015-2016**

ORDERED, pursuant to 30-A M.R.S. Section 5224, after public hearing, the City Council of the City of Portland hereby adopts the Development Program submitted by the Acting City Manager, a copy of which is attached hereto, for the Portland Downtown District for fiscal year 2015-2016.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: Mayor and Members of the City Council

FROM: Greg Mitchell, Economic Development Director

DATE: May 18, 2015

SUBJECT: Portland's Downtown District/Annual Assessment Documents

1. Order Adopting Development Program for PDD;
2. Order Establishing Yearly Assessments; and,
3. Order Authorizing Master Agreement and Supplemental Services Agreement

SPONSOR: Michael Sauschuck, Acting City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

June 1, 2015, for a first reading; June 15, 2015 for a second reading, public hearing, and vote.

Can action be taken at a later date? No

If no, why not? This item needs to be acted upon prior to the start of the City's FY2016.

PRESENTATION: Steve Hewins/5 Minutes

I. SUMMARY OF ISSUE

Each year in June, the City Council acts upon the following three Orders:

- (1) adopting the Annual Development Program for Portland's Downtown District (PDD);
- (2) establishing the yearly assessment fees to property owners located within the PDD; and
- (3) authorizing the Master Agreement and Supplemental Services Agreement with PDD.

II. REASON FOR SUBMISSION

City Council authorization is needed for the above three actions.

III. INTENDED RESULT

The intended result is for the PDD to have a yearly development program adopted by the City Council, have assessment fees levied to property owners in the District in order for the PDD to continue its program of services to support downtown cleanliness, safety, and events, and to formalize agreements between the PDD and the City for services. The City departments, which are involved in the provision of services to the PDD, have reviewed and approved this year's Master Agreement and Supplemental Services Agreement.

IV. COUNCIL GOAL ADDRESSED

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

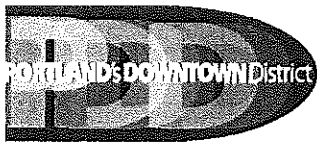
This year's assessment of \$746,307 will come from special assessments on all real estate in the PDD to fund PDD Development Program expenses for the period July 1, 2015 to June 30, 2016. *The mill rate to raise this assessment is .92 cents per \$1,000 of property value, which has been the same rate for the past six years.*

VI. STAFF ANALYSIS AND RECOMMENDATION

City Staff recommends the City Council approve the three Orders as presented.

VII. LIST OF ATTACHMENTS

1. PDD Development Program for FY16;
2. Listing of Property Owners and Assessment in PDD District;
3. Master Agreement; and,
4. Supplemental Services Agreement



Mayor Brennan and City Councilors
May 2015

President
Michael Mastronardi

Executive Director
Steve Hewins

Portland's Downtown District anticipates a robust 2016 operating year. We will be starting with a new executive director and several new staff. Over the past year our board has expanded and we continue to add talented people from all sectors of downtown Portland. I am pleased to report that the assessment mil rate of .92 for Portland's Downtown District (PDD) remains flat again this year.

We continue to focus our funds and staff on our core mission:

Portland's Downtown District is in the business of maintaining a clean and safe downtown while building and promoting a vibrant business, residential and tourism destination.

As Portland evolves, the economic vitality of the downtown continues to be driven largely by independent small businesses. Our vibrant restaurant, shopping, arts and entertainment scene is dependent upon maintaining and growing our residential, visitor and customer base. We have targeted downtown marketing as a key focus for us this year. We will soon launch a new website and a formal marketing plan to more effectively support downtown businesses.

PDD also is a leader in maintaining a clean and safe downtown. In this effort we partner with the City of Portland through our Master, Baseline and Supplemental Service Agreements. We are assisting the city in managing downtown maintenance by monitoring the new "See, Click and Fix" software and tracking issues that fall within PDD more closely. We doubled the number of police cadets we have working alongside the police department and expanded their hours from 1000am to 800pm. Our mutual goal is to create a downtown environment that exceeds our resident's expectations, allows our businesses to thrive and property owners to continue investing in Portland.

Through our collaboration with the city and local organizations like Creative Portland, the Chamber of Commerce, Portland Metro, and the Convention and Visitors Bureau, we market downtown Portland as a destination for visitors near and far. PDD produces free special events including the Christmas Tree Lighting and the Old Port Festival, and support many others such as the Art Walk.

Our Downtown Visitor Guides will continue to offer one-on-one personalized information services and assistance throughout the peak tourism season. We also produce and distribute over 160,000 copies of our popular Visitor Guide book. Our website, Portlandmaine.com, which will be re-launched in June, is one of the most actively visited in the region.

We continue to work collaboratively with property owners, city departments and community organizations to address ongoing issues such as parking, transportation, graffiti removal, recycling, homelessness, open space, nuisance crimes and safety.

Portland.
How Maine Does a City.

These efforts are needed to support residents and to encourage more people to come downtown or to stay after work. Perhaps more importantly these efforts support the Portland 'brand' – Yes, Life's Good Here. The attractiveness of the city, relative safety, accessibility to visitors for food, lodging, shopping, arts and entertainment are all important to the vibrancy of the city. We will continue to advocate for public policies that support these objectives.

Finally, we are very appreciative of our strong working relationship with the City of Portland, both staff and elected officials. We could not accomplish our mission without this cooperation and mutual support. We look forward to an exceptional 2015-16!

Sincerely,

Michael Mastronardi
Board Chair, Portland's Downtown District
Board Chair

Portland,
How **Maine** Does a City

Order 270 14/E
Tab 9 6-1-15

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

**ORDER ASSESSING MAINTENANCE AND IMPLEMENTATION
ASSESSMENTS IN THE PORTLAND DOWNTOWN DISTRICT
FOR FISCAL YEAR 2015-2016**

ORDERED, pursuant to 30-A M.R.S. § 5228, after public hearing thereon, that the sum of \$746,307 be raised and appropriated from the special assessments on all real estate situated within the boundaries of the Portland Downtown District to fund maintenance and implementation costs for such district for the period beginning July 1, 2015 and ending on June 30, 2016; and

BE IT FURTHER ORDERED, that the said sum be assessed on all real estate within the Portland Downtown District in the amounts set forth on the "List of Maintenance and Implementation assessments" which is attached hereto; and

BE IT FURTHER ORDERED, that the said assessments shall be due July 1, 2015 and payable to the City of Portland at the same time that taxes on other real estate are due; and

BE IT FURTHER ORDERED, that the interest on unpaid assessments shall be at the same rate as interest on other unpaid real estate taxes; and

BE IT FURTHER ORDERED, that the said assessments are hereby committed to the tax collector of the City of Portland for collection, pursuant to 30-A M.R.S. § 5228(5); and

BE IT FURTHER ORDERED, that the tax collector is hereby authorized and directed to take all necessary action for the collection of said assessment.

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
037 D004001	48	BROWN ST	OCEAN GATE LLC		874,090	804
037 F002001	45	BROWN ST	477 TIME & TEMPERATURE LLC		2,547,200	2,343
037 F012001	41	BROWN ST	MHS INC		171,290	158
037 I002104	15	BROWN ST	O'SULLIVAN MICHAEL &	ALAN J LEWIS JTS	242,400	223
037 I002105	15	BROWN ST	ADLER JANICE B		225,200	207
037 I002201	15	BROWN ST	HUNTER BEVERLY C &	HAROLD G HUNTER	201,800	186
037 I002202	15	BROWN ST	MACEACHERN ALLISON SCOTT		199,100	183
037 I002203	15	BROWN ST	ESCH TREVOR S &	JESSICA P ESCH JTS	257,000	236
037 I002204	15	BROWN ST	SINGER ROBERT B TRUSTEE		185,100	170
037 I002205	15	BROWN ST	JAFFE MICHAEL M &	JANN JAFFE TRUSTEES	229,300	211
037 I002206	15	BROWN ST	MCILVAIN JOHN &	ELIZABETH S MCILVAIN JTS	153,600	141
037 I002207	15	BROWN ST	MCGLOIN SHERRI		150,400	138
037 I002208	15	BROWN ST	DOCTOROFF MARK G		311,800	287
037 I002301	15	BROWN ST	BARBERA SUSAN		189,800	175
037 I002302	15	BROWN ST	KLEBE KURT E TRUSTEE		209,300	193
037 I002303	15	BROWN ST	BAUMAN PATRICIA J		270,300	249
037 I002304	15	BROWN ST	CODERE MARK R		224,100	206
037 I002305	15	BROWN ST	COFFIN KATHLEEN M		205,900	189
037 I002306	15	BROWN ST	HUNT RYAN ETAL		246,400	227
037 I002307	15	BROWN ST	DOCTOROFF MARK G		283,100	260
037 I002401	15	BROWN ST	EWING DANIELLE M		341,900	315
037 I002402	15	BROWN ST	TIEMAN JAMES S		347,900	320
037 I002403	15	BROWN ST	AVERBACH GRETA H &	JAMES M POPKIN JTS	415,100	382
037 I002404	15	BROWN ST	PARKER MARK		351,500	323
037 I002405	15	BROWN ST	GREENEWALT CHARLOTTE		384,500	354
037 I002406	15	BROWN ST	MCGORRILL DONNA T		454,300	418
037 I007001	11	BROWN ST	OLD PORT HOLDING CO LLC	MARGARITAS	840,300	773
032 I007001	0	CANAL PLAZA	COW PLAZA 1 LLC		70,700	65
032 I023001	3	CANAL PLAZA	COW PLAZA 3 LLC		7,027,400	6,465
032 I033001	2	CANAL PLAZA	COW PLAZA 2 LLC		4,650,300	4,278
032 I036001	1	CANAL PLAZA	COW PLAZA 1 LLC		15,976,800	14,699
037 C006001	18	CASCO ST	SHEPLEY LLC		2,629,600	2,419
037 C010001	16	CASCO ST	SOMALUZO LLC		740,700	681
037 D001001	45	CASCO ST	FORTY FIVE CASCO STREET LLC		730,100	672
037 D007001	37	CASCO ST	QUIRK SHIRLEY F ETALS		3,203,200	2,947
037 D023001	15	CASCO ST	15 CASCO STREET LLC		973,000	895
027 F009001	121	CENTER ST	LEVY VALERIE J		1,489,300	1,370
037 I012001	104	CENTER ST	BG CARLETON 2/14/91 LLC &	482 CONGRESS LP	372,360	343
038 C030001	59	CENTER ST	B & B REAL ESTATE LLC		333,600	307
038 E009105	70	CENTER ST	MITCHELL JOHN D	THE STAPLES SCHOOL	196,000	180
038 E009106	70	CENTER ST	APPLE REAL ESTATE	HOLDING LLC	179,300	165
038 E009204	70	CENTER ST	F & H REALTY PARTNERSHIP		194,600	179
038 E009205	70	CENTER ST	F & H REALTY PARTNERSHIP		202,300	186
038 E009304	70	CENTER ST	EAST COAST CONSTRUCTION AND	CONSULTING LLC	203,900	188
038 E009305	70	CENTER ST	MCKERSIE FAMILY LLC		202,900	187
038 E009401	70	CENTER ST	ALDER RUN DEVELOPMENT	COMPANY LLC	352,300	324
038 E009G07	70	CENTER ST	TCG PROPERTIES LLC		184,900	170
038 E009G08	70	CENTER ST	MAINE BUSINESS SERVICES INC		181,700	167
038 E012001	52	CENTER ST	PICTURE ISLAND INC		413,000	380
038 E030001	58	CENTER ST	STEELE DANIEL L		500,630	461
027 C002001	17	CHESTNUT ST	CHESTNUT STREET CHAPEL LLC		195,200	180
027 C010001	21	CHESTNUT ST	PROPERTYONE LLC		163,800	151
027 C010002	21	CHESTNUT ST	CHESTNUT STREET LOFTS LLC		199,000	183
027 C01002E	21	CHESTNUT ST	JORDAN CARA A		151,100	139
027 C01002N	21	CHESTNUT ST	FLETCHER JEFFREY A &	MELANIE C FLETCHER JTS	169,500	156
027 C01002S	21	CHESTNUT ST	MORREL VICTOR &	MARY ELIZABETH MORREL	161,100	148
027 C01002W	21	CHESTNUT ST	TISZENKEL KEITH		169,500	156
027 C01003E	21	CHESTNUT ST	CASTANEA PRIME LLC		164,400	151
027 C01003N	21	CHESTNUT ST	TILTON GARRETT K &	VICTORIA POWERS JTS	175,500	161
027 C01003S	21	CHESTNUT ST	OGDEN JOANNE &	BONNIE B MACINNIS JTS	154,400	142
027 C01003W	21	CHESTNUT ST	VANHOEWYK JOHN VN VET &	DEBORAH VANHOEWYK JTS	169,500	156

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
027 C01004E	21	CHESTNUT ST	HOEFLE HEIDI		180,500	166
027 C01004N	21	CHESTNUT ST	MCDEVITT MARION JEAN		191,600	176
027 C01004S	21	CHESTNUT ST	KAUFMANN CHARLES L		180,500	166
027 C01004W	21	CHESTNUT ST	NYGAARD DANTON D &	LESLIE J ANDERSON JTS	201,600	185
027 C01005E	21	CHESTNUT ST	NAQUI ALI &	MUNIRA Z NAQUI JTS	183,400	169
027 C01005N	21	CHESTNUT ST	YINDRA SARA R		213,000	196
027 C01005S	21	CHESTNUT ST	ANDERSON KARIN		193,400	178
027 C01005W	21	CHESTNUT ST	CURTIN TERESA ANN &	CHARLES JOHN SHAW JTS	223,000	205
027 C01006E	21	CHESTNUT ST	HAMM LARRY F &	DOROTHY J HAMM JTS	206,300	190
027 C01006N	21	CHESTNUT ST	KRUG ROBERT E WWII VET BLIND &	AURELIA C SCOTT JTS	206,600	190
027 C01006S	21	CHESTNUT ST	SCHWELLENBACH JAMES C &	LORRAINE D	196,300	181
027 C01006W	21	CHESTNUT ST	BARRY PRUDENCE B		226,600	208
027 C01007E	21	CHESTNUT ST	HARDING ALICIA &	MARTIN MARGULIS JTS	251,400	231
027 C01007N	21	CHESTNUT ST	GREENLEAF NANCY P		216,500	199
027 C01007S	21	CHESTNUT ST	MCFAUL RICHARD C &	SUZANNE K VERMILYA JTS	246,300	227
027 C01007W	21	CHESTNUT ST	PORTA NEIL		256,600	236
027 C01008N	21	CHESTNUT ST	COTSIROLOS STEPHANIE G		325,100	299
027 C01008S	21	CHESTNUT ST	WILLIAMS JAN &	SALLY WILLIAMS JTS	325,000	299
027 C01008W	21	CHESTNUT ST	BUSQUE PETER J		312,900	288
027 C0102NW	21	CHESTNUT ST	DUNDAR ERGUN		164,300	151
027 C0102SE	21	CHESTNUT ST	NICHOLS VAL E &	CONSTANCE R NICHOLS JTS	156,800	144
027 C0103NW	21	CHESTNUT ST	MCCALLY MICHAEL &	CHRISTINE CASSEL	181,400	167
027 C0103SE	21	CHESTNUT ST	CASTANEA PRIME LLC		164,500	151
027 C0104NW	21	CHESTNUT ST	FRAZER LORINDA JANE TRUSTEE		196,800	181
027 C0104SE	21	CHESTNUT ST	PATEL TANAY M		169,300	156
027 C0105NW	21	CHESTNUT ST	FULLAM CHARLOTTE		219,000	201
027 C0105SE	21	CHESTNUT ST	NAQUI ALI &	MUNIRA NAQUI JTS	181,800	167
027 C0106NW	21	CHESTNUT ST	MCCULLEY CLYDE &	SUSAN MCCULLEY JTS	212,400	195
027 C0106SE	21	CHESTNUT ST	EISENBERG AVNER &	JULIE GOELL JTS	189,600	174
027 C011001	15	CHESTNUT ST	BOODILLY LLC		1,809,800	1,665
027 F023001	30	CITY CTR	RODWAY PETER E &	MAURA H RODWAY JTS	304,700	280
027 F024001	28	CITY CTR	BROWN J B & SONS		323,600	298
027 F026001	26	CITY CTR	BROWN J B & SONS		627,700	577
027 F027001	24	CITY CTR	BROWN J B & SONS		906,800	834
032 L002001	1	CITY CTR	ONE CITY CENTER ASSOCIATES LLC		29,070,000	26,744
032 P001001	2	CITY CTR	MDA LLC		3,327,900	3,062
032 P003001	4	CITY CTR	FOUR CITY CENTER	PROPERTIES LLC	1,010,400	930
032 P004001	6	CITY CTR	SIX CITY CENTER LLC		2,303,000	2,119
032 P017001	10	CITY CTR	MINA BUILDING LLC		977,400	899
029 D001001	129	COMMERCIAL ST	RSB LIMITED LIABILITY COMPANY		781,200	719
029 D002001	121	COMMERCIAL ST	MAD COW LLC		401,200	369
029 D003001	111	COMMERCIAL ST	BLANCHARD BLOCK LLC		1,773,500	1,632
029 K003001	57	COMMERCIAL ST	OLYMPIA EQUITY INVESTORS V LLC		10,717,000	9,860
029 S001001	145	COMMERCIAL ST	FLEMING CREEK LLC ETALS		6,509,400	5,989
030 A005001	94	COMMERCIAL ST	BMC INC		1,127,400	1,037
030 A101001	90	COMMERCIAL ST	PROPRIETORS OF CUSTOM HOUSE	WHARF ATTN GE	269,400	248
030 C001001	100	COMMERCIAL ST	SOLEY WHARF LLC		5,557,100	5,113
030 D005001	84	COMMERCIAL ST	FINLEY JAMES R &	DALE W WEEKS	537,500	495
030 H001001	144	COMMERCIAL ST	DIMILLO ARLENE ETALS TRUSTEES		4,339,000	3,992
030 H004001	136	COMMERCIAL ST	CARROLL BLOCK LLC		2,249,700	2,070
031 K103001	218	COMMERCIAL ST	PROPRIETORS OF UNION WHARF		239,080	220
031 L034001	250	COMMERCIAL ST	CM WATERFRONT PROPERTIES LLC		2,111,800	1,943
031 L038001	230	COMMERCIAL ST	PROPRIETORS OF UNION WHARF		45,130	42
032 S004001	161	COMMERCIAL ST	ROB DOG REALTY LLC		1,265,900	1,165
032 U003001	185	COMMERCIAL ST	COMPARK LLC		217,280	200
032 V002001	205	COMMERCIAL ST	LANDFALL LLC		695,800	640
032 V004001	211	COMMERCIAL ST	GRANITE FACE LLC		2,205,900	2,029
032 V005001	217	COMMERCIAL ST	217 COMMERCIAL STREET	ASSOCIATES INC	2,637,500	2,427
032 V008001	225	COMMERCIAL ST	225 COMMERCIAL ST ASSOC INC		2,043,400	1,880
038 F004001	241	COMMERCIAL ST	SLM PROPERTIES INC		1,586,800	1,460
038 F006001	245	COMMERCIAL ST	CASCO VIEW HOLDINGS LLC		4,007,900	3,687

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
038 G00202A	269	COMMERCIAL ST	MGM OLD PORT LLC		135,200	124
038 G00202B	269	COMMERCIAL ST	MARR JEAN		137,600	127
038 G00202C	269	COMMERCIAL ST	GREEN DESIGN LLC		150,500	138
038 G00202D	269	COMMERCIAL ST	HUSSEY CURTIS		143,600	132
038 G00202E	269	COMMERCIAL ST	GAGNON TROY R &	KIRSTEN J GAGNON JTS	139,900	129
038 G00202F	269	COMMERCIAL ST	SERAICHICK SUSAN ETAL		147,600	136
038 G00203A	269	COMMERCIAL ST	CAMPBELL STEVEN		140,900	130
038 G00203B	269	COMMERCIAL ST	RICE LEE P		133,900	123
038 G00203C	269	COMMERCIAL ST	LEWIS LAWRENCE &	JOANNE LEWIS	151,400	139
038 G00203D	269	COMMERCIAL ST	HUDON WILFRED R		140,400	129
038 G00203E	269	COMMERCIAL ST	CONKLIN HENRY C		170,000	156
038 G00203F	269	COMMERCIAL ST	TUCKER HAROLD W III		143,900	132
038 G00204A	269	COMMERCIAL ST	SERNOFFSKY SUSAN		114,000	105
038 G00204B	269	COMMERCIAL ST	KIRKHAM JOHN C &	JENNIFER L MROWKA JTS	150,000	138
038 G00204C	269	COMMERCIAL ST	MCDEVITT JOHN J IV		168,100	155
038 G00204D	269	COMMERCIAL ST	KIMBLE ELLEN SUE		127,200	117
038 G00204E	269	COMMERCIAL ST	LOWRY KATE		141,900	131
038 G00204F	269	COMMERCIAL ST	WONG ROCKET &	LILLIANA M ACUNA JTS	149,000	137
038 G00205A	269	COMMERCIAL ST	BERG ERIC O JR TRUSTEE	OF ERIC O BERG REVOCABLE	160,100	147
038 G00205B	269	COMMERCIAL ST	TARBOX JEFFERY H		174,500	161
038 G00205C	269	COMMERCIAL ST	TALBOT CHELSEA E &	ANTHONY G BERLUCCHI JTS	155,000	143
038 G00205D	269	COMMERCIAL ST	CAHOON DENALI A		198,800	183
038 G00205E	269	COMMERCIAL ST	FLAHERTY CHRISTOPHER F		173,800	160
038 G00205F	269	COMMERCIAL ST	MANN CHRISTIANA E		150,500	138
038 G002267	269	COMMERCIAL ST	MCNULTY BEVIN A		280,300	258
038 G002271	269	COMMERCIAL ST	JKC LLC		257,100	237
040 E003001	311	COMMERCIAL ST	NEAL ALEXANDRA &	EARL BYRON NEAL JTS	428,500	394
040 E003002	311	COMMERCIAL ST	BANKS MICHAEL D		286,800	264
040 E003003	311	COMMERCIAL ST	SMITH JANE W TRUSTEE		283,600	261
040 E003004	311	COMMERCIAL ST	BROWN J B & SONS		412,900	380
040 E003005	311	COMMERCIAL ST	ATLANTIC PROPERTIES LLC		495,600	456
040 E003006	311	COMMERCIAL ST	BROWN J B & SONS		420,100	386
040 E003007	311	COMMERCIAL ST	KRUITHOFF CATHERINE H &	WAYNE A KRUITOFF	274,600	253
040 E003008	311	COMMERCIAL ST	BROWN J B & SONS		343,100	316
040 E003009	311	COMMERCIAL ST	KROON THOMAS J &	MARIANNE M KROON	377,500	347
040 E00300H	311	COMMERCIAL ST	JBB HOSPITALITY I LLC		12,301,600	11,317
040 E00300R	311	COMMERCIAL ST	BROWN J B & SONS		1,473,700	1,356
040 E003010	311	COMMERCIAL ST	BROWN DOUGLAS W		516,800	475
040 E003011	311	COMMERCIAL ST	BROWN J B & SONS		358,500	330
040 E003012	311	COMMERCIAL ST	BROWN J B & SONS		395,000	363
040 E003013	311	COMMERCIAL ST	PARDI KATHLEEN A		350,100	322
040 E003014	311	COMMERCIAL ST	BROWN J B & SONS		397,900	366
040 F009001	305	COMMERCIAL ST	BAXTER PLACE LLC		6,327,600	5,821
041 A015001	260	COMMERCIAL ST	WATERFRONT MAINE BT LLC		1,194,800	1,099
037 E003001	10	CONGRESS SQ	PLAZA ASSOCIATES AT CONGRESS	SQUARE LP	10,029,900	9,228
027 A015001	465	CONGRESS ST	5 MONUMENT SQUARE LLC		4,928,900	4,535
027 B002001	443	CONGRESS ST	JJR 443 CONGRESS LLC		2,973,400	2,736
027 B004001	439	CONGRESS ST	METROPOLITAN APARTMENTS LLC		3,734,300	3,436
027 B007001	415	CONGRESS ST	ASHBY TEAM LLC		1,769,100	1,628
027 D001001	385	CONGRESS ST	METRO MEDIA PROPERTIES LLC		2,349,540	2,162
032 C001001	390	CONGRESS ST	PRESS HOTEL LLC		9,573,100	8,807
032 G001001	396	CONGRESS ST	A & M PARTNERS INC		9,182,100	8,448
037 A038001	565	CONGRESS ST	PACHIOS BROTHERS I LLC &	LACONIA LLC	1,821,300	1,676
037 A042001	559	CONGRESS ST	HER LLC		287,700	265
037 A043001	555	CONGRESS ST	CORRYMORE ZELLERTON LLC		355,600	327
037 A044001	553	CONGRESS ST	ROCCO HOLDINGS LLC		325,100	299
037 A045001	575	CONGRESS ST	571 ENTERPRISES LLC		402,200	370
037 C014100	531	CONGRESS ST	HEGA REALTY LLC		1,388,800	1,278
037 C014200	531	CONGRESS ST	HEGA REALTY LLC		2,068,100	1,903
037 C014300	531	CONGRESS ST	HEGA REALTY LLC		1,639,100	1,508
037 C014400	531	CONGRESS ST	HEGA REALTY LLC		1,753,700	1,613

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
037 C014501	531	CONGRESS ST	GRANT SUMNER M &	PERPETUA A GRANT JTS	433,300	399
037 C014502	531	CONGRESS ST	HEGA REALTY LLC		336,500	310
037 C014503	531	CONGRESS ST	SHOREY LINDA J &	JOHN DECKER JTS	491,400	452
037 C014504	531	CONGRESS ST	HEGA REALTY LLC		806,600	742
037 C014505	531	CONGRESS ST	MAGUIRE MICHAEL P &	THELMA D A MAGUIRE JTS	601,500	553
037 C014506	531	CONGRESS ST	HEGA REALTY LLC		396,800	365
037 C014507	531	CONGRESS ST	HEGA REALTY LLC		397,600	366
037 C014508	531	CONGRESS ST	HEGA REALTY LLC		539,500	496
037 C014509	531	CONGRESS ST	HEGA REALTY LLC		310,900	286
037 C014510	531	CONGRESS ST	PAPAGNI CHRISTOPHER		439,600	404
037 C016001	551	CONGRESS ST	551 CONGRESS STREET LLC		848,900	781
037 C017006	547	CONGRESS ST	MOULTON THOMAS W		638,000	587
037 C01701A	545	CONGRESS ST	R & J 545 PARTNERS LLC		142,800	131
037 C01701B	545	CONGRESS ST	R & J 545 PARTNERS LLC		150,900	139
037 C01701C	545	CONGRESS ST	R & J 545 PARTNERS LLC		161,700	149
037 C01702A	547	CONGRESS ST	MARTIN ROGER		132,100	122
037 C01702B	547	CONGRESS ST	LIPPMANN AMY TRUSTEE		123,900	114
037 C01702C	547	CONGRESS ST	RUSSMAN BRETT		145,500	134
037 C01702D	547	CONGRESS ST	WHEELER-BERTA FRANNIE		204,700	188
037 C01702E	547	CONGRESS ST	CAREY EDGAR J II		143,500	132
037 C01703A	547	CONGRESS ST	BOURKE PATRICK J IV		201,700	186
037 C01703B	547	CONGRESS ST	MACE F CHARLES		194,400	179
037 C01703C	547	CONGRESS ST	PACKARD JEFFREY G &	RICHARD H PACKARD JTS	256,800	236
037 C01704A	547	CONGRESS ST	FITZPATRICK SUSAN E		197,900	182
037 C01704B	547	CONGRESS ST	GRANO ROBERT C TRUSTEE		160,200	147
037 C01704C	547	CONGRESS ST	TYSON BRUCE &	ANDREA TYSON JTS	270,800	249
037 C01705A	547	CONGRESS ST	HENRY MICHAEL T &	JAIME COHEN JTS	592,400	545
037 C01705B	547	CONGRESS ST	BLISSFUL BOUND LLC		254,100	234
037 D002001	511	CONGRESS ST	OCEAN GATE LLC		9,511,500	8,751
037 D024001	519	CONGRESS ST	MAINE CHARITABLE MECHANIC	ASSOC	595,870	548
037 E002001	585	CONGRESS ST	TRUSIANI ANNAMARIE & PAUL J		1,337,300	1,230
037 F017001	489	CONGRESS ST	MHS INC		1,226,800	1,129
037 F018001	481	CONGRESS ST	477 TIME & TEMPERATURE LLC		77,500	71
037 F018002	481	CONGRESS ST	477 TIME & TEMPERATURE LLC		850,300	782
037 F022001	477	CONGRESS ST	477 TIME & TEMPERATURE LLC		5,280,500	4,858
037 G001001	594	CONGRESS ST	FITZGIBBONS VIRGINIA S &	LEE F STREET TRUSTEE	802,600	738
037 G004001	582	CONGRESS ST	584 CONGRESS STREET LLC		217,000	200
037 G005001	580	CONGRESS ST	BBB INC		536,300	493
037 G006001	578	CONGRESS ST	578 CONGRESS LLC		219,400	202
037 G007001	576	CONGRESS ST	574 ASSOCIATES LLC		185,800	171
037 G008001	574	CONGRESS ST	574 ASSOCIATES LLC		191,800	176
037 G009001	570	CONGRESS ST	PRIDE RALPH H TRUSTEE		542,700	499
037 G012001	584	CONGRESS ST	584 CONGRESS ST LLC		137,000	126
037 G014001	562	CONGRESS ST	TERBAX REALTY INC		5,095,800	4,688
037 H001001	550	CONGRESS ST	NEVERMORE LLC		480,400	442
037 H002002	540	CONGRESS ST	540 CONGRESS STREET LLC		2,152,700	1,980
037 H002003	540	CONGRESS ST	540 CONGRESS STREET LLC		142,900	131
037 H002004	540	CONGRESS ST	540 CONGRESS STREET LLC		145,400	134
037 H002005	540	CONGRESS ST	540 CONGRESS STREET LLC		142,900	131
037 H002006	540	CONGRESS ST	504 CONGRESS STREET LLC		160,700	148
037 H005001	536	CONGRESS ST	PICKWICK PROPERTIES	OF MAINE LLC	926,100	852
037 H009001	516	CONGRESS ST	PACHIOS BROTHERS II LLC		834,200	767
037 H010001	510	CONGRESS ST	CENTER CITY PLAZA ASSOC		4,309,000	3,964
037 H011001	500	CONGRESS ST	MATERIAL OBJECTS		177,800	164
037 H011002	500	CONGRESS ST	BARBA NANCY L		188,600	174
037 H013001	504	CONGRESS ST	KAPLAN 504 LLC		1,176,200	1,082
037 I001001	498	CONGRESS ST	BEAVER BLOCK LLC		648,500	597
037 I002101	490	CONGRESS ST	GRACE LLC		232,600	214
037 I002102	492	CONGRESS ST	ZILKHA MICHAEL S		260,600	240
037 I003001	482	CONGRESS ST	BG CARLETON 2/14/91 LLC &	482 CONGRESS LP	3,125,600	2,876
037 I004001	480	CONGRESS ST	SCIOTO DARBY INVESTMENTS INC		983,700	905

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
037 I005001	486	CONGRESS ST	BARTHE DONNA		316,000	291
039 A001001	626	CONGRESS ST	PARK WONBAE &	IP BOON PARK JTS	810,700	746
039 A002001	622	CONGRESS ST	STONE COAST PROPERTIES LLC		913,300	840
039 A005001	616	CONGRESS ST	614 CONGRESS STREET LLC		1,029,200	947
039 A008001	610	CONGRESS ST	19 SOUTH STREET LLC		328,800	302
039 A009001	608	CONGRESS ST	19 SOUTH STREET LLC		289,700	267
039 A010001	606	CONGRESS ST	RICE GEOFFREY I		248,200	228
039 A013001	600	CONGRESS ST	RICE GEOFFREY I		878,100	808
039 A038001	612	CONGRESS ST	BLUE BAY LLC		282,400	260
045 A001001	660	CONGRESS ST	A K LONGFELLOW LLC		309,300	285
045 A002001	656	CONGRESS ST	RICE GEOFFREY I		843,000	776
045 A003001	638	CONGRESS ST	638 CONGRESS STREET	PARTNERS LLC	5,101,800	4,694
045 A034001	664	CONGRESS ST	RANS LLC		464,900	428
045 A035001	670	CONGRESS ST	LONGFELLOW SQUARE	PARTNERS LLC	611,700	563
046 C011001	675	CONGRESS ST	DOUKAS WILLIAM B		367,700	338
046 C012001	673	CONGRESS ST	DOUKAS ANDREW J		147,700	136
046 C013001	671	CONGRESS ST	DOUKAS ANDREW J &	WILLIAM B DOUKAS JTS	169,900	156
046 C019001	667	CONGRESS ST	MSD PROPERTIES LLC		671,500	618
046 D018001	653	CONGRESS ST	RICE GEOFFREY TRUSTEE		235,600	217
046 D021001	655	CONGRESS ST	TRELAUNY 657 LLC		5,222,500	4,805
046 D022001	645	CONGRESS ST	BAYSIDE MAINE LLC		3,783,700	3,481
046 D026001	633	CONGRESS ST	BURNHAM ARMS LLC		2,218,100	2,041
046 D027001	629	CONGRESS ST	BURNHAM ARMS ANNEX LLC		160,400	148
046 D028001	625	CONGRESS ST	BURNHAM ARMS ANNEX LLC		227,500	209
046 D029001	619	CONGRESS ST	BAXTER LIBRARY LP		2,502,600	2,302
038 C009001	24	COTTON ST	CASCO VIEW HOLDINGS III LLC		729,500	671
038 C012001	8	COTTON ST	CASCO VIEW HOLDINGS III LLC		1,862,500	1,714
038 F019001	19	CROSS ST	CASCO VIEW HOLDINGS II LLC		6,943,300	6,388
027 A001001	320	CUMBERLAND AVE	25 PREBLE STREET LLC		6,259,500	5,759
037 B001001	380	CUMBERLAND AVE	THREE EIGHTY CUMBERLAND	ASSOCIATES LLC	1,807,000	1,662
037 D003001	360	CUMBERLAND AVE	53-57 ALLEN AVE	LIMITED LIABILITY	465,800	429
037 F009001	338	CUMBERLAND AVE	THREE FORTY ASSOCIATES LLC		1,811,700	1,667
029 K001001	7	CUSTOM HOUSE ST	OLYMPIA EQUITY	INVESTORS IV LLC	5,902,300	5,430
032 U004001	1	DANA ST	ONE DANA LLC		902,700	830
032 U005001	7	DANA ST	TRANSMARINE		665,700	612
032 V001001	10	DANA ST	10 DANA STREET LLC		1,254,500	1,154
040 B028001	1	DANFORTH ST	GIORBI ARCHIE S &	MATILDA M JTS	394,000	362
040 D001001	20	DANFORTH ST	BROWN J B & SONS		2,818,400	2,593
040 D002001	10	DANFORTH ST	WRIGHT-RYAN REAL ESTATE LLC		1,003,100	923
032 D001001	107	EXCHANGE ST	TOP OF EXCHANGE LLC		918,700	845
032 D002001	97	EXCHANGE ST	TOP OF EXCHANGE LLC		1,959,500	1,803
032 D003001	93	EXCHANGE ST	TOP OF EXCHANGE LLC		1,430,600	1,316
032 D004001	85	EXCHANGE ST	TOP OF EXCHANGE LLC		2,548,400	2,345
032 E001001	57	EXCHANGE ST	57 EXCHANGE STREET LLC		2,906,700	2,674
032 E002001	53	EXCHANGE ST	PALACCI ALBERT		1,176,800	1,083
032 E004001	49	EXCHANGE ST	PALACCI ALBERT		567,400	522
032 E005001	45	EXCHANGE ST	45 EXCHANGE STREET LLC		2,130,900	1,960
032 E008001	39	EXCHANGE ST	PALACCI ALBERT		949,600	874
032 E009001	31	EXCHANGE ST	B & C LIMITED		1,027,000	945
032 F010001	9	EXCHANGE ST	ELEVEN EXCHANGE LLC		1,421,700	1,308
032 F012001	5	EXCHANGE ST	ELEVEN EXCHANGE LLC		619,500	570
032 F014001	1	EXCHANGE ST	ELEVEN EXCHANGE LLC		517,600	476
032 H001001	110	EXCHANGE ST	ONETEN EXCHANGE LLC		1,176,600	1,082
032 H002001	106	EXCHANGE ST	RICH BUILDING LLC		721,500	664
032 H003001	102	EXCHANGE ST	PALACCI JOSEPH		848,700	781
032 H006001	92	EXCHANGE ST	MAINESCAPE PROPERTIES LLC		568,300	523
032 H007001	88	EXCHANGE ST	WHALEBACK ASSOCIATES LLC		710,800	654
032 H008001	80	EXCHANGE ST	MURAL ASSOCIATES		1,795,300	1,652
032 I002001	52	EXCHANGE ST	OLD PORT ARMS		1,557,200	1,433
032 I006001	50	EXCHANGE ST	FITZGIBBONS VIRGINIA S &	LEE F STREET TRUSTEES	593,000	546
032 I008001	44	EXCHANGE ST	44 EXCHANGE STREET LLC		1,679,900	1,546

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
032 I010001	34	EXCHANGE ST	PALACCI SION &	JOSEPH PALACCI	815,400	750
032 I011001	30	EXCHANGE ST	MAINELAND REAL ESTATE	CONSULTANTS LLC	683,100	628
032 I012001	10	EXCHANGE ST	10 EXCHANGE PROPERTIES LLC		2,133,700	1,963
032 I040001	44	EXCHANGE ST	COW PLAZA 1 LLC		247,500	228
029 B004001	341	FORE ST	JACKSON MICHAEL		140,700	129
029 B004002	341	FORE ST	O'CONNOR DENNIS R III &	BARBARA M O'CONNOR JTS	127,400	117
029 B004003	341	FORE ST	R & L LLC		146,800	135
029 B004004	341	FORE ST	CHILDS DONNA W		140,700	129
029 B004005	341	FORE ST	PENDERS JOHN F IV		128,600	118
029 B004006	341	FORE ST	KELLER BENJAMIN R		139,100	128
029 B004007	341	FORE ST	ALAGIC SUAD		130,700	120
029 B004008	341	FORE ST	DALTON JENNIFER L		129,900	120
029 B004009	341	FORE ST	KNECHT GERALD C		397,500	366
029 B004010	341	FORE ST	BOOTHBY SQUARE PROPERTIES LLC		180,000	166
029 B004011	341	FORE ST	BOOTHBY SQUARE PROPERTIES LLC		118,100	109
029 C001001	340	FORE ST	ADB REATLY LLC		120,000	110
029 C001002	340	FORE ST	HAYEK LEE-ANN C TRUSTEE		128,000	118
029 C001003	340	FORE ST	ANGOFF RONALD &	NANCY ANGOFF JTS	220,000	202
029 C001004	340	FORE ST	ABD REALTY LLC		141,500	130
029 C001005	340	FORE ST	ADB REALTY LLC		65,900	61
029 C002001	336	FORE ST	DOCK FORE INC		348,000	320
029 C003001	334	FORE ST	PORT CITY APARTMENTS		401,100	369
029 C005001	330	FORE ST	J & R VENTURES LLC		445,700	410
029 C006003	320	FORE ST	FORE STREET INVESTMENTS LLC		162,100	149
029 C006004	320	FORE ST	FORE STREET INVESTMENTS LLC		167,700	154
029 C006005	320	FORE ST	FORE STREET INVESTMENTS LLC		122,100	112
029 C006006	320	FORE ST	FORE STREET INVESTMENTS LLC		138,200	127
029 C006007	320	FORE ST	FORE STREET INVESTMENTS LLC		392,100	361
029 E007001	291	FORE ST	NOVICK SAMUEL L		812,000	747
029 E012001	277	FORE ST	287 FORE STREET LLC		321,580	296
029 K002001	288	FORE ST	EAST BROWN COW LIMITED	LIABILITY COMPANY	1,103,000	1,015
029 K005001	280	FORE ST	OLYMPIA EQUITY	INVESTORS V-P LLC	12,880,800	11,850
029 K006001	300	FORE ST	OLYMPIA EQUITY	INVESTORS IV LLC	497,800	458
029 K0060B2	300	FORE ST	OLYMPIA EQUITY	INVESTORS IV LLC	98,000	90
029 K0060B3	300	FORE ST	OLYMPIA EQUITY	INVESTORS IV LLC	70,000	64
032 F005001	363	FORE ST	ELEVEN EXCHANGE LLC		883,400	813
032 F007001	375	FORE ST	ELEVEN EXCHANGE LLC		467,200	430
032 F008001	375	FORE ST	ELEVEN EXCHANGE LLC		451,000	415
032 F013001	379	FORE ST	ELEVEN EXCHANGE LLC		648,800	597
032 I018001	395	FORE ST	395 FORE STREET LLC		912,300	839
032 I041001	425	FORE ST	COW PLAZA GARAGE LLC		5,931,300	5,457
032 I041002	425	FORE ST	BANGOR SAVINGS BANK		85,000	78
032 I042001	433	FORE ST	COW PLAZA HOTEL LLC		12,367,300	11,378
032 J001001	386	FORE ST	386 FORE STREET LLC		1,197,900	1,102
032 J002001	392	FORE ST	PFEFFER RICHARD A &	J EDWARD STEBBINS	864,600	795
032 J004001	396	FORE ST	BEER GUYS LLC		166,400	153
032 J004002	396	FORE ST	BEER GUYS LLC		180,300	166
032 J004003	396	FORE ST	BEER GUYS LLC		228,300	210
032 J00400B	396	FORE ST	BEER GUYS LLC		151,600	139
032 J005001	398	FORE ST	FORE STREET PARTNERSHIP	LIMITED PARTNERSHIP	375,100	345
032 J005002	398	FORE ST	FORE STREET PROPERTIES	LIMITED PARTNERSHIP	300,000	276
032 J005003	398	FORE ST	INGALLS ROGER E		271,600	250
032 J005004	398	FORE ST	INGALLS ROGER E		271,600	250
032 N009001	414	FORE ST	GOULD COMPANY LLC		601,300	553
032 N010001	416	FORE ST	416 FORE STREET LLC		479,000	441
032 N011001	422	FORE ST	HARDING RICHARD B ETAL		450,100	414
032 N012001	424	FORE ST	SOLETSKY LIMITED LIABILITY CO		828,700	762
032 R001001	428	FORE ST	428 FORE STREET LLC		756,200	696
032 R003001	432	FORE ST	DREAM PORT 3 LLC		423,200	389
032 R004001	434	FORE ST	DREAM PORT 3 LLC		493,300	454
032 R007001	436	FORE ST	DREAM PORT 3 LLC		1,275,000	1,173

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
032 R008001	446	FORE ST	DREAM PORT 3 LLC		1,000,500	920
032 S001001	366	FORE ST	MC GEE CHARLES T &	RICHARD P HERRERA TR	2,321,400	2,136
038 B003001	481	FORE ST	NORTH RIVER IV LLC		3,634,900	3,344
038 F008001	470	FORE ST	DICTAR ASSOCIATES II		2,148,000	1,976
038 F009001	468	FORE ST	HARBOR PLAZA ASSOCIATES II		7,658,200	7,046
038 F009002	468	FORE ST	DICTAR ASSOCIATES II		2,360,900	2,172
038 G001001	486	FORE ST	RREEF AMERICA REIT III CORP Z4		3,257,600	2,997
038 G007001	508	FORE ST	RREEF AMERICA REIT III CORP Z4		701,800	646
037 A001001	45	FOREST AVE	NORTHERN NEW ENGLAND	TELEPHONE OPERATIONS	10,420,800	9,587
037 A012001	39	FOREST AVE	39 LLC		2,957,100	2,721
037 A022001	25	FOREST AVE	PORTLAND STAGE COMPANY		822,900	757
037 A033001	11	FOREST AVE	PACHIOS BROTHERS I LLC &	LACONIA LLC	499,480	460
037 A046001	7	FOREST AVE	D & D PARTNERS LLC		372,500	343
037 E004001	28	FOREST AVE	PLAZA ASSOCIATES AT CONGRESS	SQUARE LP	197,750	182
037 E005001	32	FOREST AVE	RB PORTLAND LLC		162,900	150
037 E005002	32	FOREST AVE	PLAZA ASSOCIATES AT CONGRESS	SQUARE LP	175,560	162
027 F028001	41	FREE ST	SURPLUS STORE INC		117,920	108
027 F029001	23	FREE ST	ONE CITY CENTER ASSOCIATES LLC		6,584,700	6,058
037 G010001	133	FREE ST	HUBBARD'S APTS INC		532,700	490
037 I009001	59	FREE ST	JBG & H ASSOCIATES		448,260	412
038 A001001	10	FREE ST	JBG&H ASSOCIATES		2,933,800	2,699
038 A001002	10	FREE ST	JB BROWN & SONS		713,300	656
038 A005001	22	FREE ST	JB BORWN & SONS		2,519,500	2,318
038 I018001	46	FREE ST	JB BORWN & SONS		2,359,200	2,170
039 B004001	130	FREE ST	MAINEHEALTH		723,380	666
039 B007001	128	FREE ST	ARCAND PROPERTIES LLC		305,000	281
039 B008001	120	FREE ST	MAINEHEALTH		586,840	540
039 C00101B	110	FREE ST	MAINEHEALTH		730,800	672
039 C00101C	110	FREE ST	MAINEHEALTH		1,032,900	950
039 C0010GB	110	FREE ST	MAINEHEALTH		43,300	40
039 C001302	110	FREE ST	MAINEHEALTH		239,500	220
029 C006001	3	GOLD ST	MAINE BODYWORKS LLC		157,000	144
029 C006002	1	GOLD ST	ADNERB PROPERTIES LLC		154,800	142
037 E006009	173	HIGH ST	181 HIGH STREET LLC		8,309,400	7,645
037 E007001	157	HIGH ST	RB PORTLAND LLC		32,802,700	30,178
039 A016001	122	HIGH ST	PACIFIC & SOUTHERN COMPANY INC		79,500	73
039 A016002	122	HIGH ST	GANNETT KENTUCKY LIMITED	PARTNERSHIP	813,050	748
039 A017001	128	HIGH ST	PACIFIC & SOUTHERN COMPANY INC		2,817,500	2,592
039 A027001	116	HIGH ST	CUMBERLAND CLUB		1,317,200	1,212
039 A035001	110	HIGH ST	ONE HUNDRED AND TEN HIGH ST	LIMITED LIABILITY	382,800	352
039 A037001	106	HIGH ST	THIDWICK LLC		416,200	383
039 E008001	93	HIGH ST	GREATER PORTLAND	LANDMARKS INC	730,600	672
046 D031001	142	HIGH ST	STONE COAST PROPERTIES LLC		4,127,000	3,797
028 K001001	77	MARKET ST	85 MARKET STREET LLC		1,647,500	1,516
028 K003001	75	MARKET ST	WHOLLY COW LLC		3,643,900	3,352
029 O003001	43	MARKET ST	PORTLAND REGENCY INC		285,520	263
032 E010001	46	MARKET ST	MARKET MILK PARTNERS LLC		721,900	664
032 F001001	42	MARKET ST	OCEAN BLOCK ASSOCIATES		809,900	745
032 F002001	36	MARKET ST	36 MARKET ST		661,600	609
032 F003001	30	MARKET ST	E L C INC		511,600	471
028 L007001	131	MIDDLE ST	RACKLEFF BLOCK LLC		2,168,800	1,995
028 M005001	121	MIDDLE ST	123 LLC		2,738,300	2,519
028 N009001	115	MIDDLE ST	BROTHERS THREE LLC		648,300	596
028 N010001	111	MIDDLE ST	VENTURE III HOLDINGS LLC		200,100	184
029 A00101A	150	MIDDLE ST	CEDRONE RONALD M		328,300	302
029 A00101B	150	MIDDLE ST	GOLDEN PEGGY		329,700	303
029 A00101C	150	MIDDLE ST	IN FIRM GROUP THE		290,700	267
029 A00101D	150	MIDDLE ST	IN FIRM GROUP THE		290,700	267
029 A00102A	150	MIDDLE ST	FRANK PATRICK J JR		168,400	155
029 A00102B	150	MIDDLE ST	COTSIROLOS BORLAND LLC		150,800	139
029 A00102C	150	MIDDLE ST	MEIL JOAN F &	HENRY MEIL JTS	158,900	146

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
029 A00102D	150	MIDDLE ST	DURRELL KATHERINE A &	STANELY E DURRELL JR JTS	143,400	132
029 A00102E	150	MIDDLE ST	ERNEST PAUL W &	CARMELIA G ERNEST JTS	167,400	154
029 A00102F	150	MIDDLE ST	FRANK JANE C		166,800	153
029 A00102G	150	MIDDLE ST	COHEN ARTHUR C & THELMA JTS		143,300	132
029 A00102H	150	MIDDLE ST	JOHNS F ARTHUR T		168,400	155
029 A00102I	150	MIDDLE ST	BOEPPLE ELIZABETH A		139,600	128
029 A00102J	150	MIDDLE ST	MILLS S PETER		137,100	126
029 A00102K	150	MIDDLE ST	MILLS S PETER		160,900	148
029 A00103A	150	MIDDLE ST	MOUMENE MISSOUM &	ELIZABETH MOUMENE JTS	178,400	164
029 A00103B	150	MIDDLE ST	LINDQUIST PETER R &	SARAH RUEF-LINDQUIST JTS	150,800	139
029 A00103C	150	MIDDLE ST	BELL KEVIN P &	SUSAN F BELL JTS	158,900	146
029 A00103D	150	MIDDLE ST	THORNTON JAMES M		153,400	141
029 A00103E	150	MIDDLE ST	MANGIARACINE KEVIN &	KATHLEEN A	167,400	154
029 A00103F	150	MIDDLE ST	M & B 101 INC		166,800	153
029 A00103G	150	MIDDLE ST	M & B 101 INC		143,300	132
029 A00103H	150	MIDDLE ST	HENDERSON HAROLD L &	RACHEL C HENDERSON JTS	145,800	134
029 A00103I	150	MIDDLE ST	HARDING WILLIAM TRUSTEE		149,600	138
029 A00103J	150	MIDDLE ST	WALTER MARIA L TRUSTEE		137,100	126
029 A00103K	150	MIDDLE ST	MACBRIDE JENNIFER L		160,900	148
029 A00104A	150	MIDDLE ST	FINDLAY JOHN D JR		178,400	164
029 A00104B	150	MIDDLE ST	FISHER LAURIE		150,800	139
029 A00104C	150	MIDDLE ST	CAMP PETER S		158,900	146
029 A00104D	150	MIDDLE ST	MILLS S PETER		153,400	141
029 A00104E	150	MIDDLE ST	GIUSTRA BETSY M TRUSTEE		167,400	154
029 A00104F	150	MIDDLE ST	GUILLAUME RAYMOND		166,800	153
029 A00104G	150	MIDDLE ST	GIARRAPUTO CYNTHIA R &	JOHN P FARRELL JTS	143,300	132
029 A00104H	150	MIDDLE ST	MONTGOMERY JORDAN		145,800	134
029 A00104I	150	MIDDLE ST	KOSTA KATHERINE C		149,600	138
029 A00104J	150	MIDDLE ST	GREENZWEIG NEIL TRUSTEE		137,100	126
029 A00104K	150	MIDDLE ST	GIOVINE DONATO &	MARIAGRAZIA ZANARDI JTS	160,900	148
029 A00105A	150	MIDDLE ST	MIRS PROPERTIES LLC		799,300	735
029 A00105B	150	MIDDLE ST	DUNKERLY ALLAN S TRUSTEE		402,900	371
029 A0010BA	150	MIDDLE ST	242 NEWRY PARTNERS	LIMITED PARTNERSHIP	188,500	173
029 A0010BB	150	MIDDLE ST	242 NEWRY PARTNERS	LIMITED PARTNERSHIP	188,500	173
029 A001P01	150	MIDDLE ST	DUNKERLY MARY V		10,100	9
029 A001P02	150	MIDDLE ST	GIUSTRA BETSY M TRUSTEE		5,100	5
029 A001P03	150	MIDDLE ST	LINDQUIST PETER R &	SARAH RUEF-LINDQUIST JTS	10,400	10
029 A001P04	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P05	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P06	150	MIDDLE ST	IN FIRM GROUP THE		10,100	9
029 A001P07	150	MIDDLE ST	IN FIRM GROUP THE		10,100	9
029 A001P08	150	MIDDLE ST	GIARRAPUTO CYNTHIA R &	JOHN P FARRELL JTS	10,100	9
029 A001P09	150	MIDDLE ST	MCGOLDRICK RICHARD J		10,100	9
029 A001P10	150	MIDDLE ST	FRANK JANE C		10,100	9
029 A001P11	150	MIDDLE ST	FRANK PATRICK J JR		10,100	9
029 A001P12	150	MIDDLE ST	INFIRM GROUP		10,100	9
029 A001P13	150	MIDDLE ST	MILLS S PETER		10,100	9
029 A001P14	150	MIDDLE ST	ERNEST PAUL W &	CARMELIA G ERNEST JTS	10,100	9
029 A001P15	150	MIDDLE ST	FINDLAY JOHN D JR		10,100	9
029 A001P16	150	MIDDLE ST	MACBRIDE JENNIFER L		10,100	9
029 A001P17	150	MIDDLE ST	CAMP PETER S		10,100	9
029 A001P18	150	MIDDLE ST	CEDRONE RONALD M		10,100	9
029 A001P19	150	MIDDLE ST	CEDRONE RONALD M		10,100	9
029 A001P20	150	MIDDLE ST	THORNTON JAMES M		10,100	9
029 A001P21	150	MIDDLE ST	DUNKERLY ALLAN S &	MARY V DUNKERLY JTS	10,100	9
029 A001P22	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P23	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P24	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P25	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P26	150	MIDDLE ST	MIRS PROPERTIES LLC		10,100	9
029 A001P27	150	MIDDLE ST	HARDING WILLIAM TRUSTEE		10,100	9

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
029 A001P28	150	MIDDLE ST	SHIPYARD INC		10,100	9
029 A001P29	150	MIDDLE ST	SHIPYARD INC		10,100	9
029 E001001	130	MIDDLE ST	ELC LIMITED LIABILITY COMPANY		5,763,200	5,302
029 E006001	100	MIDDLE ST	ALBANY ROAD-PORTLAND LLC		17,130,000	15,760
029 E026001	100	MIDDLE ST	ALBANY ROAD-PORTLAND LLC		16,178,000	14,884
029 O002001	164	MIDDLE ST	164 REALTY LLC		1,232,900	1,134
032 H016001	183	MIDDLE ST	SHOEMAKER LLC		683,900	629
032 H016002	183	MIDDLE ST	LEWIS SAUL & ASSOCIATES PC		549,700	506
032 H016003	183	MIDDLE ST	MORRISWITZER-BUILDING	FOR HEALTH LLC	549,700	506
032 H016004	183	MIDDLE ST	SLEEPY HOLLOW DEVELOPMENT INC		258,360	238
032 H01604B	183	MIDDLE ST	ITM REALTY II LLC		291,340	268
032 H022001	193	MIDDLE ST	SAVI REALTY LLC		2,004,200	1,844
032 I001001	178	MIDDLE ST	MIDDLE STREET HOLDINGS LLC		5,527,700	5,085
029 A003001	5	MILK ST	MILK STREET ASSOCIATES LLC		2,561,900	2,357
029 B002001	4	MILK ST	4 MILK MHR LLC		1,502,300	1,382
029 O004001	11	MILK ST	PORTLAND REGENCY INC		112,080	103
029 R001001	20	MILK ST	PORTLAND REGENCY INC		7,901,900	7,270
032 F009001	30	MILK ST	OCEAN BLOCK ASSOCIATES		1,313,700	1,209
027 F001001	50	MONUMENT SQ	50 MONUMENT SQUARE LLC		3,166,400	2,913
027 F002001	28	MONUMENT SQ	BUDDE SCOTT &	CHARLOTTE F COLE JTS	760,900	700
027 F002002	28	MONUMENT SQ	STODDARD ROBERT B &	ELIZABETH W SODDARD JTS	566,600	521
027 F002003	28	MONUMENT SQ	28 MSQ LLC		232,300	214
027 F002004	28	MONUMENT SQ	28 MSQ LLC		246,300	227
027 F002005	28	MONUMENT SQ	28 MSQ LLC		116,300	107
027 F003001	22	MONUMENT SQ	22 MONUMENT SQUARE LLC		1,679,700	1,545
027 F004001	6	MONUMENT SQ	PARCHEGGIO LLC		187,000	172
027 F005001	18	MONUMENT SQ	18 MONUMENT SQUARE LLC		574,700	529
027 F006001	16	MONUMENT SQ	MCCURTAIN BRADLEY C		706,700	650
027 F014001	0	MONUMENT SQ	TWO MONUMENT WAY ASSOCIATES		31,700	29
032 K001001	2	MONUMENT SQ	800 NORTHERN CORP		15,107,800	13,899
032 K012001	1	MONUMENT SQ	FINARD MURRAY W TR		10,949,300	10,073
027 F011001	1	MONUMENT WAY	ONE MONUMENT WAY LLC		3,465,500	3,188
032 S003001	7	MOULTON ST	7-9 MOULTON LLC		283,300	261
032 S005001	5	MOULTON ST	MOULTON STREET REALTY LLC		1,924,200	1,770
032 T004001	4	MOULTON ST	ADRIENNE-JANE INCORPORATED		3,521,700	3,240
037 A023001	84	OAK ST	NORTHEAST REALTY INC		341,500	314
037 A035001	72	OAK ST	AVESTA OAK STREET LP		2,196,400	2,021
037 B013001	95	OAK ST	NORTHERN NEW ENGLAND	TELEPHONE OPERATIONS	209,880	193
037 C008001	81	OAK ST	HEGA REALTY LLC		338,940	312
037 H014001	51	OAK ST	MAINE COLLEGE OF ART		155,430	143
037 H014003	51	OAK ST	MAINE COLLEGE OF ART		159,130	146
037 H014005	51	OAK ST	MAINE COLLEGE OF ART		116,560	107
037 H025001	57	OAK ST	NEKOIE BAHMAN &	CATHERINE E JTS	77,300	71
039 B011001	44	OAK ST	44 OAK STREET LLC		1,131,700	1,041
021 A001001	119	PEARL ST	PEARL CUMBERLAND LLC		4,265,900	3,925
028 K002001	66	PEARL ST	LEADER PROPERTIES LLC		4,244,800	3,905
028 L005001	75	PEARL ST	WBFM LLC		1,020,700	939
028 L00502A	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	571,300	526
028 L00502B	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	449,000	413
028 L00503A	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	352,000	324
028 L00503B	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	461,900	425
028 L00504A	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	352,000	324
028 L00504B	75	PEARL ST	WOODMAN BUILDING	ASSOCIATES LLC	571,300	526
029 E009001	25	PEARL ST	25 PEARL MHR LLC		14,588,600	13,422
029 E016001	31	PEARL ST	130 LIMITED LIABILITY COMPANY		4,582,400	4,216
038 E019001	1	PLEASANT ST	EMSWORTH PROPERTY LLC		696,700	641
038 E020001	7	PLEASANT ST	7-19 PLEASANT STREET LLC		392,200	361
038 E021001	9	PLEASANT ST	7-19 PLEASANT STREET LLC		79,990	74
038 E023001	15	PLEASANT ST	7-19 PLEASANT STREET LLC		811,000	746
038 X001001	9	PLEASANT ST	7-19 PLEASANT STREET LLC		11,760	11
040 B013001	14	PLEASANT ST	GIOBBI CARLO JR		250,700	231

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
040 B015001	10	PLEASANT ST	GIOBBI CARLO JR		15,100	14
040 B017001	4	PLEASANT ST	GIOBBI ARCHIE S &	MATILDA M JTS	46,020	42
038 B001001	1	PORTLAND SQ	NORTH RIVER IV LLC		15,876,300	14,606
038 B001007	1	PORTLAND SQ	PS ONE REALTY LLC		12,323,400	11,338
038 B002001	2	PORTLAND SQ	NORTH RIVER IV LLC		26,105,600	24,017
027 A014001	7	PREBLE ST	5 MONUMENT SQUARE LLC		57,050	52
037 F005001	28	PREBLE ST	EARL APARTMENTS LLC		2,442,400	2,247
037 F007001	24	PREBLE ST	24 PREBLE STREET LLC		1,221,800	1,124
037 F023001	22	PREBLE ST	477 TIME & TEMPERATURE LLC		2,153,900	1,982
037 B015001	11	SHEPLEY ST	11 SHEPLEY STREET	ASSOCIATES LLC	1,669,800	1,536
037 C001001	0	SHEPLEY ST	OCEAN GATE LLC		322,700	297
037 C004001	0	SHEPLEY ST	OCEAN GATE LLC		204,630	188
029 B001001	37	SILVER ST	WITT-T LLC		520,400	479
029 B003001	25	SILVER ST	PORTLAND REGENCY INC		600,550	553
029 O001011	99	SILVER ST	ARENSBERG LEE C TRUSTEE		120,400	111
029 O001012	99	SILVER ST	TOZESKI DAVID P		120,600	111
029 O001013	99	SILVER ST	NORRIS BRENDA W		121,100	111
029 O001021	99	SILVER ST	THOMS DEBORAH L		118,100	109
029 O001023	99	SILVER ST	JENKINS COLBY LAWRENCE		140,200	129
029 O001024	99	SILVER ST	LEDDY JENNIFER M		114,700	106
029 O001025	99	SILVER ST	LINCOLN STREET PROERTIES LLC		106,800	98
029 O001026	99	SILVER ST	FISCHER CHRISTOPHER E		110,000	101
029 O001028	99	SILVER ST	FLOECKHER PETER W &	SARAH B MAXNER JTS	130,500	120
029 O001029	99	SILVER ST	COUSINS DAVID A		127,900	118
029 O001031	99	SILVER ST	BRAGDON BENJAMIN		123,800	114
029 O001032	99	SILVER ST	BOROWSKI ROBERT B		125,500	115
029 O001033	99	SILVER ST	DUMAS JOHN L		125,500	115
029 O001034	99	SILVER ST	BERG HENRY T TRUSTEE		125,500	115
029 O001035	99	SILVER ST	DODERER WILLIAM K		125,500	115
029 O001036	99	SILVER ST	HAAG DARYA I		107,900	99
029 O001037	99	SILVER ST	KINSMAN JESSICA A		99,900	92
029 O001038	99	SILVER ST	ZURKAN WILLIAM K		109,100	100
029 O001039	99	SILVER ST	LEDUC SANDRA J & SOREL &	KENNETH J JTS	112,600	104
029 O001041	99	SILVER ST	LINCOLN STREET PROPERTIES LLC		129,100	119
029 O001042	99	SILVER ST	KINGRA MICHAEL R &	KATHERINE D SZUM JTS	129,100	119
029 O001043	99	SILVER ST	BHANDARI AMEESH M &	PHYLIS BHANDARI JTS	138,400	127
029 O001044	99	SILVER ST	LITTLEJOHN CLIFTON T		126,900	117
029 O001045	99	SILVER ST	FITZPATRICK SUSAN E		125,500	115
029 O001046	99	SILVER ST	VAN PEURSEM CORINNE M		125,500	115
029 O001047	99	SILVER ST	MANCHESTER CATHLEEN A &	KATIE J MANCHESTER JTS	91,900	85
029 O001048	99	SILVER ST	PEEL BRUCE H		102,700	94
029 O001049	99	SILVER ST	DEVINE DEREK		97,500	90
029 O001210	99	SILVER ST	LINCOLN STREET PROPERTIES LLC		105,500	97
029 O001211	99	SILVER ST	GINTER DAVID R		101,600	93
029 O001212	99	SILVER ST	SILVER VICTORIA J		96,100	88
029 O001213	99	SILVER ST	PROSSER JAMES G		105,600	97
029 O001310	99	SILVER ST	HEALY ROBERT E &	CATHERINE B HEALY JTS	115,100	106
029 O001410	99	SILVER ST	CHANDLER PETER H JR		114,000	105
029 O001501	99	SILVER ST	KATZ JAMES &	CHARLOTTE KASSAB JTS	389,600	358
029 O001502	99	SILVER ST	PEAK 5 EQUITIES LLC		406,200	374
029 O001B01	99	SILVER ST	GIARUSSO DAVID P SR		100,000	92
029 O001B02	99	SILVER ST	JOHNSON BEN A		100,000	92
039 E010001	88	SPRING ST	LAFAYETTE PORTLAND LLC		17,438,200	16,043
055 E037001	190	STATE ST	HUCKSTER'S ROW PROPERTIES LLC		676,800	623
055 E039001	188	STATE ST	LONGFELLOW SQUARE	PARTNERS LLC	1,165,700	1,072
032 H005002	0	TEMPLE ST	11 TEMPLE MHR LLC		2,590,200	2,383
032 I039001	40	UNION ST	CENTRAL MAINE POWER CO	LOCAL TAX	1,289,200	1,186
032 V012001	1	UNION ST	237 COMMERCIAL STREET LLC		1,717,000	1,580
031 I135001	1	UNION WHARF	PROPRIETORS OF UNION WHARF		1,351,100	1,243
032 V014001	50	WHARF ST	DREAM PORT 3 LLC		802,600	738
032 V015001	42	WHARF ST	DREAM PORT 3 LLC		381,200	351

PARCEL ID	NO	LOCATION	OWNER	OWNER CONT	TAXABLE VAL	Assessment
032 V016001	34	WHARF ST	GVF PROPERTIES LLC		369,600	340
040 E001001	40	YORK ST	BROWN J B & SONS		667,900	614
040 F011001	14	YORK ST	BROWN J B & SONS		2,264,000	2,083
Total:					811,202,730	746,307

Order 271-14/15
Tab 10 6-1-15

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

**ORDER AUTHORIZING MASTER AGREEMENT
AND SUPPLEMENTAL SERVICES AGREEMENT
WITH PORTLAND'S DOWNTOWN DISTRICT**

ORDERED, that the Acting City Manager is hereby authorized to enter into a Master Agreement, with the Baseline Services provided in Exhibit B, with the Downtown Improvement District Corporation, d/b/a Portland's Downtown District, to carry out the Development Plan for the Portland's Downtown Improvement District for the period from and after July 1, 2015 and ending June 30, 2016, said agreement to be substantially in the form attached hereto as Exhibit A;

BE IT FURTHER ORDERED, that the Acting City Manager is authorized to enter into a Supplemental Services Agreement, substantially in the form attached hereto as Exhibit C, with the Downtown Improvement District Corporation d/b/a Portland's Downtown District to implement Supplemental Public Works Services, as approved in the Fiscal Year 2016 Appropriation Resolve.

MASTER AGREEMENT BETWEEN

THE CITY OF PORTLAND

AND

DOWNTOWN IMPROVEMENT DISTRICT, INC.

D/b/a PORTLAND'S DOWNTOWN DISTRICT

AGREEMENT made by and between the CITY OF PORTLAND, a municipal corporation of the State of Maine, hereinafter referred to as the "CITY" and the DOWNTOWN IMPROVEMENT DISTRICT, INC., d/b/a PORTLAND'S DOWNTOWN DISTRICT, a Maine non-profit corporation, having its office and place of business at Portland, Maine, and doing business as "Portland's Downtown District", hereinafter referred to as the "CORPORATION"

WHEREAS, the CITY has established a Downtown Improvement District; and

WHEREAS, the CITY desires to have certain services performed by the CORPORATION, as described in this Agreement, within the CITY's Downtown Improvement District (hereinafter referred to as the "District"; and

WHEREAS, the CITY desires to contract with the CORPORATION for the provision of certain services to be provided in the District;

NOW, THEREFORE, in consideration of the covenants herein contained, the parties hereto mutually agree as follows:

ARTICLE I. FINANCIAL CONSIDERATIONS

1. The **CITY** will levy development district assessments on property in the District, as authorized by the City Council and permitted by law. **CITY**-owned property, as well as property which is tax exempt under Maine law, shall not be assessed by the **CITY**.
2. For the period commencing July 1, 2015 and ending June 30, 2016 the City will pay the **CORPORATION** in four (4) installments, to reflect the assessments collected by the City, less the **CITY**'s direct and indirect costs, such as, but not limited to, postage, publication, lien costs and costs of delinquent collection. Installment payments will be made on August 10, 2015; October 12, 2015; February 1, 2016; and May 2, 2016.
3. The **CITY** may adjust such payments, after an advisory consultation with representatives of the **CORPORATION**: either (i) in order to equal the net assessments collected; or (ii) in the event of any challenge to the assessments which includes a request for a refund, to withhold such amounts as the Director of Finance may deem necessary to protect the City from any order or judgment requiring it to make a refund.

In addition to the foregoing, the **CITY** will pay in a lump sum, within thirty (30) days from the close of the fiscal year, any amount assessed in a prior year, but collected in a subsequent year. Said payment by **CITY** shall be in the amount of the net assessment collected as provided herein, less any amounts remaining to be reimbursed under a prior year Master Agreement or Supplemental Services Agreement with the **CITY**. **CITY** will provide the **CORPORATION** with written detail as to any deductions taken from payments under this paragraph.

The **CORPORATION** shall provide a fiduciary bond, payable to the **CITY**, in the minimum amount of Ten Thousand Dollars (\$10,000.00).

4. Advancements made hereunder shall be reimbursed to the **CITY** from receipts from development district assessments, net of any of the costs referred to in Paragraph 2.

5. Notwithstanding the foregoing, **CORPORATION** agrees that it will neither encumber funds which it anticipates receiving from development district assessments nor incur expenditures in anticipation of receipt of such funds except in accord with the line items in the budget attached hereto as Exhibit A, or any subsequent amendments thereto approved by the **CITY**.
6. The **CITY** and the **CORPORATION** have accepted the **CORPORATION's** budget in Exhibit A, covering the period beginning on July 1, 2015, and ending on June 30, 2016, with estimated District revenues from the assessments in the amount of \$746,307.
7. The parties agree that the acceptance of the budget by the **CITY** is for planning purposes only and does not obligate the **CITY** to pay the **CORPORATION** said amounts. **CORPORATION** specifically acknowledges the **CITY's** right to either terminate or reduce its payments as provided in Paragraph 2.
8. The **CORPORATION** will provide the Director of Finance with a monthly financial statement in a form acceptable to him, including, but not limited to, a statement of its cash position. At a minimum, the statement shall list all income and expenses. The statement shall be due on or before the fifteenth (15th) day of the month following the month to which it relates. In addition, the books and records of the **CORPORATION** shall be audited annually as of the close of business on the thirtieth (30th) day of June by an independent certified public accountant and his report will be delivered to the Director of Finance.
9. The Director of Finance of the City of Portland will advise the **CORPORATION**, from month to month, of the amounts the **CITY** has collected from the assessments referred to herein, so that the **CORPORATION** can amend its budget to conform with the amount of money which may be available to it from the net proceeds of the development district assessments.
10. The **CITY** will maintain the level of "Basic Services" described in the memorandum which is attached hereto as Exhibit B.

11. The **CORPORATION** shall have reasonable access to the **CITY's** assessment collection records, and the **CITY** shall have reasonable access to the **CORPORATION's** books and records.
12. The Director of Finance shall determine the net amount collected by the City from development district assessments. In determining such amount, he shall deduct from the amounts so collected all costs (whether direct or indirect) incurred by the **CITY** both in establishing and also in administering the development district; all costs of assessments and collections; and, if the **CITY** should collect interest on delinquent assessments, such interest shall not be included in the "net amount collected".
13. The Director of Finance shall determine the "net amount collected from development district assessments" as well as the amount to be withheld by the **CITY** in the event of a challenge which includes a request for a refund. The **CORPORATION** may appeal his determination within fourteen (14) days to the **CITY** Manager whose decision will be final.

ARTICLE II. SERVICES

A. ORGANIZATION OF CORPORATION.

The **CORPORATION** will:

1. Provide staff and administrative services for supervision of the daily activities and public space management of the District.
2. Establish positions for administration and management of the program; recruit, hire, and pay and otherwise supervise the work force necessary to implement this charge.
3. Establish a corporate Board of Directors whose members fairly represent a cross section of taxpayers in the District.
4. Establish a mechanism for resolving any dispute to the kind and level of services which may arise

between the **CORPORATION** and persons subject to development district assessments regarding the kind and level of services provided by the **CORPORATION**.

5. Provide liaison between the **CITY**, the District, property owners, civic groups, interested persons, and other groups and individuals, as directed by the **CITY** Manager and necessary to insure the successful implementation of District services.

6. Maintain all minutes and records of proceedings as may be required.

B. SERVICES AUTHORIZED TO BE PROVIDED BY CORPORATION.

The **CORPORATION** is authorized to provide the following services to supplement the **CITY's** "Basic Services" as described in Exhibit B.

1. Decorate and beautify public places in the District.
2. Sponsor and promote public events to take place on or in public places in the District.
3. Advertise and promote non-profit, cultural, educational and commercial business activities in the District.
4. Maintain information and directional signing for the District in accordance with applicable City codes and ordinances.
5. Improve public relations, generating favorable publicity for the District.
6. Manage vending activities, kiosks and information booths.
7. Sweep and clean sidewalks in the District.
8. Clean and erase graffiti.

9. Maintain vegetation and greenery in the public areas.

10. Remove trash and litter.

11. Wash, maintain and relocate street furniture, trash cans, drinking fountains, street lanterns, telephones and undertake minor repairs to street furniture.

12. Remove snow.

13. Provide for security of public areas.

14. Carry out the downtown improvement program authorized and approved by the **CITY** Council as set forth in this Agreement.

C. AUTHORITY OF CORPORATION.

Nothing in this Agreement shall be construed to limit the **CORPORATION's** general powers, as set forth in the Maine Nonprofit Corporation Act, Title 13-B of the Maine Revised Statutes Annotated.

ARTICLE III. TERM OF AGREEMENT

This Agreement shall commence on July 1, 2015, and continue through, June 30, 2016.

ARTICLE IV. TERMINATION

This Agreement may be terminated by either party for good cause. Good cause shall be deemed to be found by the **CITY** at such time as the **CORPORATION's** performance under this Agreement has been determined in the exclusive judgment of the **CITY** Manager to be unsatisfactory which determination shall not be unreasonable.

If the **CORPORATION** should fail to perform any material covenant, obligation or agreement hereunder for a period of thirty (30) days after written notice from the **CITY** Manager specifying such failure, then, upon expiration of the thirty (30) day period, the **CITY** Manager may provide the **CORPORATION**

with notice of his intention to terminate the Agreement as provided herein.

The **CORPORATION** shall have a ninety (90) day period, computed from the date of receipt of the notice of intent to terminate, within which to provide satisfactory service. In the event the **CITY** Manager should determine, at the expiration of the ninety (90) day period, that the **CORPORATION's** performance is still unsatisfactory and declare that the Agreement is terminated, the **CORPORATION** shall have the right to appeal his decision to the City Council.

The appeal to the **CITY** Council shall be filed with the **CITY** Manager within seven (7) days from the date the **CORPORATION** receives the notice of termination.

The terms and conditions of this Agreement shall remain in full force and effect and binding on both parties until the **CITY** Council has acted on the appeal.

The **CORPORATION** shall be deemed to have good cause to terminate this Agreement if (i) the **CITY**, pursuant to the provisions of Article I, should reduce its anticipated payments by more than 20% of the amount it would otherwise have paid during the periods from July 1, 2015 to December 31, 2015, and January 1, 2016 to June 30, 2016; (ii) if the **CITY** should be more than 30 days in arrears in any payment due hereunder; or (iii) the **CITY** should fail to maintain "Basic Services", as that phrase is defined herein, in a material and substantial way.

In the event the **CORPORATION** should have "good cause" to terminate this Agreement, its relief shall be limited solely to termination of this Agreement, and it shall not be entitled to damages of any kind nor to equitable relief.

Nothing herein shall be construed as giving the **CORPORATION** the right to perform the work contemplated under this Agreement beyond the time when the **CORPORATION's** services become unsatisfactory as determined by the **CITY** Manager, following the ninety (90) day notice period, or, in the event of an appeal, beyond the time the **CITY** Council has affirmed the **CITY** Manager's decision. In case the **CORPORATION** should be discharged before all the services contemplated hereunder have been completed, or the services for any reason should be stopped, either because of

the expiration of the term hereof or because of the inability of the **CORPORATION** to fulfill its obligations under this Agreement, the **CORPORATION** shall be reimbursed for all services satisfactorily performed to the date of termination in accordance with Article II hereof. After notice of termination and completion of the appeal process, the **CORPORATION** shall:

A. With respect to existing activities, take only such actions as the **CITY** Manager shall direct;

B. Assign to the **CITY** in the manner, at the times and only to the extent the **CITY**, acting by and through its **CITY** Manager, may direct it to do so, all the rights, title and interest of the **CORPORATION** in and to all existing orders and agreements.

C. To the extent rights, title and interests of the **CORPORATION** in and to existing orders and agreements may be assigned to the **CITY** and accepted by it; obligations incurred on or after such assignment will be assumed by the **CITY**. Otherwise, the **CORPORATION** shall settle all outstanding liabilities and all claims arising out of any terminated orders or agreements.

D. Deliver to the **CITY**, in the manner, at the times and to the extent directed by the **CITY** Manager, all documents and data produced by the **CORPORATION** as part of or in connection with the work.

ARTICLE V. ASSIGNMENT

The **CORPORATION** covenants and agrees that it will neither assign nor transfer any rights hereunder, either in whole or in part, without first obtaining the prior written consent of the **CITY**.

ARTICLE VI. AREA COVERED

The services will be provided by the **CORPORATION** in the area designated by the **CITY** Council as the Downtown Improvement District of the **CITY** (hereinafter the "District"). A description and map thereof are attached as Exhibits C and D respectively and incorporated herein.

ARTICLE VII. STANDARD OF PERFORMANCE

All services performed under this Agreement either by or on behalf of the **CORPORATION** shall be performed in a good, workmanlike fashion to the reasonable satisfaction of the **CITY** Manager.

ARTICLE VIII. MANAGEMENT OF PERFORMANCE

The **CITY**'s Director of Public Services and/or designee and the **CORPORATION**'S Executive Director and/or designee agree to meet and communicate on a monthly basis using a standard meeting agenda format to address regular topic reviews, including but not limited to quality control in service delivery, updated information on service activities, programs and projects. These services are detailed in this Agreement, its Exhibits, and also in the Supplemental Services Agreement - executed contemporaneously with this Master Agreement - and its Exhibit.

ARTICLE IX. COMPLIANCE WITH LAW

The **CORPORATION** will comply with all applicable provisions of Federal, State, and local law, including, but not limited to, the Civil Rights Act of 1964, in its performance under this Agreement. The **CORPORATION** shall include a similar provision in each of its subcontracts.

ARTICLE X. INDEMNIFICATION

The **CORPORATION** shall, at its own cost and expense, defend, indemnify, and hold harmless the **CITY**, its officers, agents, and employees, from and against the following:

- (a) to the fullest extent permitted by law, the **CORPORATION** shall indemnify and hold harmless the **CITY**, its officers and employees, from and against all claims, damages, losses, and expenses, just or unjust, including but not limited to costs of defense, including attorney's fees, arising out of or resulting from the performance of this Agreement, provided that

any such claims, damage, loss or expense is: (1) attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss or use thereof; and (2) is caused in whole or in part by any negligent act or omission of the **CORPORATION**, anyone directly or indirectly employed by it, or anyone for whose act it may be liable;

(b) all claims and liens of the **CORPORATION's** consultants, subcontractors, and their laborers, mechanics, materialmen, and/or suppliers.

Such obligation shall not be construed either to negate or abridge any other obligation of indemnification, and shall not be limited by any provision for insurance contained in this Agreement.

ARTICLE XI. INSURANCE

Neither the **CORPORATION** nor any of its subcontractors shall commence work under this Agreement until they have provided the insurance coverage required by this Agreement and such coverage has been approved by the **CITY**.

(a) Workers' Compensation Insurance. The **CORPORATION** and its subcontractors shall procure and maintain, at their own expense, and show evidence to the **CITY** of Workers' Compensation Coverage, as well as Employer's Liability Coverage, for their employees. All such policies which are in any way related to the services to be provided hereunder and which are secured and maintained by the **CORPORATION** or any subcontractors shall include clauses requiring that each underwriter shall waive all of its rights of recovery under subrogation or otherwise against the **CITY**. The City shall be named as an additional insured in all such policies.

(b) Prior to the execution of this Agreement, **CORPORATION** will procure and maintain Public Liability Insurance coverage and Automobile Insurance coverage in amounts of not less than Four Hundred Thousand Dollars (\$400,000) combined single limit for bodily

injury, death, and property damage, and also Worker's Compensation Insurance coverage, naming the **CITY** as an additional insured thereon. an additional insured on the certificate, in this way: certificate must say either: A) "the policy actually been 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 the like, or which merely states The City of Portland is named as an Additional Insured, will not be acceptable.

(d) Deductible Amount. The **CORPORATION** and its subcontractors will reimburse the **CITY** for any amounts it may be required to pay and hold it harmless from the cost of any losses for which they are responsible and to which a deductible amount may apply. The deductible amount in any such policy may not exceed Two Thousand Five Hundred Dollars (\$2,500.00) without the written consent of the **CITY**.

(e) Certificate of Insurance. The **CORPORATION** and its subcontractors will provide the **CITY** with either certificates of insurance or certified copies of the applicable policies, showing that they have complied with these provisions, and such certificates shall provide that thirty (30) days' written notice of non-renewal, material modification, or cancellation must be given to the **CITY**, prior to the effective date of such non-renewal, material modification, or cancellation.

(f) Claims-made Policies. Claims-made policies will not be accepted.

ARTICLE XII. INDEPENDENT CONTRACTOR

The **CORPORATION** either has or will secure, at its own expense, all personnel, materials, and equipment required to perform its obligations under this Agreement. Its personnel shall neither include any employee of the **CITY** nor shall such personnel be deemed to have any contractual relationship with the **CITY** by virtue of this Agreement. This Agreement does not prohibit either the **CORPORATION** or the **CITY** from entering into any contractual relationship. The **CORPORATION**, agreeing expressly that its status is that of an independent contractor, further, agrees that no such personnel shall represent or hold himself or herself out to be an officer or employee of the **CITY** either by reason of this Agreement or by reason of his/her employment by the **CORPORATION** or its subcontractors.

ARTICLE XIII. SUBCONTRACTS

The **CORPORATION** may, after thirty (30) days' notice in advance to the **CITY** Manager of its intention to do so, and with his approval, which shall not be unreasonably withheld, subcontract with third parties for the provision of part or all of the public services, including, but not limited to, security services, trash and litter removal, and snow removal, under this Agreement. The **CORPORATION** shall provide the **CITY** with copies of any third party contracts and with any insurance certificates required under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of this _____ day of June, 2015.

WITNESS

CITY OF PORTLAND

_____ By: _____
Michael Sauschuck
Its Acting City Manager

WITNESS

**DOWNTOWN IMPROVEMENT DISTRICT, INC.
d/b/a PORTLAND'S DOWNTOWN DISTRICT**

_____ By: _____
Michael Mastronardi
Its Board Chairman

PORTLAND'S DOWNTOWN DISTRICT FY2016 BUDGET

July 1, 2015 to June 30, 2016

ORDINARY INCOME/EXPENSE

Income

ADMIN FEE INCOME-P&S	12,000	
ASSESSMENT INCOME		
CITY ASSESSMENT PROCESSING COST	0	
ASSESSMENT REVENUE	746,307	
NONPROFIT CONTRIBUTIONS	0	
TOTAL ASSESSMENT INCOME		746,307
EVENT INCOME		
MERRY MADNESS INCOME	12,000	
LIGHT UP YOUR HOLIDAYS INCOME	10,000	
ALIVE AT FIVE INCOME	0	
OLD PORT FESTIVAL INCOME	70,000	
SHOP FOR A CAUSE INCOME	0	
PORTLAND WINTERFEST INCOME	5,000	
TOTAL EVENT INCOME		97,000
INTEREST INCOME	0	
ONLINE REVENUES	5,000	
MARKETING INCOME	5,000	
P&S INCOME	12,000	
P&W INCOME	1,000	
TOTAL ORDINARY INCOME	878,307	

Expense

BANK SERVICE CHARGES	0	
CLEANING	2,995	
CONFERENCES/PROF DEV	1,200	
CONTRACT LABOR	9,000	
COPIER MAINTENANCE	250	
DEPRECIATION EXPENSE	0	
DUES AND SUBS	3,000	
EMPLOYEE COSTS		
HEALTH/DENTAL INSURANCE	42,000	
LIFE & DISABILITY INSURANCE	4,400	
PAYROLL PROCESSING FEE	1,000	
PAYROLL TAX EXPENSE	17,000	
SIMPLE EXPENSE	4,000	
TOTAL EMPLOYEE COSTS		68,400
EMPLOYEE PARKING & BUS	4,800	
EQUIPMENT EXPENSE	1,000	
INSURANCE		
DIRECTORS & OFFICERS	600	
GENERAL LIABILITY INCLUDING EVENTS	10,000	
LIQUOR LIABILITY	1,000	

WORKERS COMPENSATION	1,300	
TOTAL INSURANCE COSTS		12,900
MEETING EXPENSES	1,500	
POSTAGE	3,500	
PROFESSIONAL FEES		
ACCOUNTING	6,500	
COMPUTERS	750	
LEGAL	1,000	
TOTAL PROFESSIONAL FEES		8,250
RENT		
CAM CHARGES	7,880	
RENT - Other	17,128	
SALARIES AND WAGES	185,000	
BONUS AND INCENTIVES	10,000	
TOTAL COMPENSATION		200,000
SUPPLIES	4,000	
TAXES-PROPERTY	400	
TELEPHONE & INTERNET	3,000	
UTILITIES		
ELECTRIC	1,600	
GAS	1,200	
TOTAL ORDINARY EXPENSE	347,003	
NET ORDINARY INCOME	531,304	
OTHER INCOME/EXPENSE		
Expense		
ADOPT A FLAG EXPENSE	0	
ALIVE AT FIVE	0	
BANNERS EXPENSE	2,000	
CRUISE CONSORTIUM EXP	0	
DOWNTOWN WORKER DAY	475	
TARGETED MARKETING	20,000	
GRAFFITI REMOVAL	12,000	
GUIDES EXPENSES		
GUIDE PROGRAM EXPENSES	500	
PAYROLL TAX EXPENSES	1,200	
TELEPHONE STIPEND	200	
WAGES	12,000	
TOTAL GUIDE EXPENSES		13,900
HOLIDAY LIGHTS	41,500	
HOMETEAM EXPENSES	5,000	
LIGHT UP YOUR HOLIDAYS		
MARKETING	5,500	
PERFORMERS	3,000	
SECURITY	1,500	

EXHIBIT A TO MASTER AGREEMENT

TREE LIGHTING	3,000	
WINDOW WALK	0	
MERRY MADNESS EXPENSES	6,500	
WAGON RIDES	6,000	
TOTAL LUYH EXPENSES		24,400
PORTLAND WINTERFEST EXPENSES	5,000	
OLD PORT FESTIVAL		
MARKETING	5,000	
MISCELLANEOUS	5,000	
PERFORMERS	1,000	
PERMITS	5,800	
SECURITY	1,800	
TOTAL OLD PORT FESTIVAL EXPENSE		20,100
PARK & SHOP		
P&S MISCELLANEOUS EXP	3,000	
PARK & SHOP ADMIN EXPENSE	7,000	
TOTAL PARK AND SHOP EXPENSE		10,000
PARK AND WORK EXPENSE	0	
POLICE CADET PROGRAM	24,000	
PRIOR YEAR ADJUSTMENTS	0	
SUPPLEMENTAL SERVICES CONTRACT EXPENSE	335,329	
WEBSITE DEVELOPMENT	18,000	
TOTAL OTHER EXPENSE	531,304	
NET INCOME	0	

EXHIBIT B TO MASTER AGREEMENT
(BASELINE SERVICES)

MEMORANDUM RELATED TO THE
PROVISION OF CERTAIN SERVICES
BY THE CITY OF PORTLAND

(July 1, 2015 - June 30, 2016)

This Memorandum relating to the provision of certain services attempts to define the baseline of City services agreed to be provided by the City to the area defined and designated as the Downtown Improvement District as passed by the City Council on March 16, 1992 (Council Order #306, as amended on February 22, 1995, by Council Order #185). This Memorandum is not binding upon the current City Council or any future City Council, but rather is a definition of the City's intent and good faith to provide services to the Downtown Improvement District zone.

It is generally understood that the City shall not reduce any of these usual and normal baseline services, thus requiring the same services to be provided by the Downtown Improvement District, Inc. (d/b/a Portland's Downtown District or its successors, unless these reductions are part of an overall reduction of City services provided by various departments to the City as a whole.

MAINTENANCE SERVICES.

Whereas it is the intention of any downtown improvement district maintenance program to complement existing City services currently provided with a supplementary program of cleaning and/or maintenance, the following information shall comprise the baseline of City services to be provided at City expense. Unless otherwise noted, services to be provided by the City shall apply only to the area(s) considered part of the public way.

1) Horticultural Program.

In all public areas within the downtown improvement district zone, the City will maintain and improve the condition of all flower urns and other flowerbeds,

trees, tree wells, bushes, plantings and other like horticultural amenities. Such activity shall include the initial planting, timely and appropriate maintenance, preventative and otherwise, and expeditious replacement of any damaged, destroyed or diseased horticultural products, including grass, flowers, and trees. Specific areas of attention will include Longfellow Square, Congress Square, Monument Square, Tommy's Park, Post Office Park, Boothby Square, and any other public park, square or space which may be developed in the future.

2) Green Space Maintenance.

The City shall execute a green space maintenance program including mowing of all public grassed areas within the District. .

3) Downtown Blitz.

Each year the City shall undertake a dedicated effort to repair, repaint, replace and correct any defects, deficiencies or problems in the district. Items of focus shall include light and utility poles, sidewalks, curbstones, trashcans, benches, signs, crosswalk markings, traffic signals, tree wells, planters, benches, trees, kiosks, shelters, bollards, and any other amenity that is now or at some point in the future may be installed. This program will be undertaken as early as possible each spring and conclude as rapidly as possible. Performance of some activities, i.e. painting, will take place annually as conditions permit. Major capital activity or the reconstruction and/or repair of significant infrastructure (street paving, sewer work, etc.) would not be considered part of this blitz program.

4) Sidewalk Repair.

To the extent it is funded, the City will undertake an on-going sidewalk repair program to re-grout existing sidewalks and replace bituminous sidewalk repairs with permanent repairs.

5) Street Sweeping.

All streets or parts thereof included in the downtown improvement district zone will be swept from curb line to curb line once per week.

6) Trash Removal.

Daily and when necessary emptying of all public trash receptacles in the downtown improvement district zone and disposal of resulting waste.

7) Holiday Decorations.

Installation and removal of downtown Holiday decorations throughout the District to include Christmas trees at Monument Square and City Hall Plaza, string lights on light poles and common area trees such as Tommy's Park, and banners as agreed by the City and PDD, and provide for electrical energy related costs.

8) Snow Plowing.

The City will plow and remove snow as necessary from all streets and parts thereof in the downtown improvement district zone.

9) Streetscape Amenity Maintenance.

The City will repair and correct any defects, deficiencies or problems in the district as necessary. Items of focus include light and utility poles, sidewalks, curbstones, trashcans, signs, crosswalk markings, traffic signals, tree wells, planters, benches, trees, kiosks, shelters, bollards, and any other amenity that are now or at some point in the future may be installed. All repairs, etc. will take place within a reasonable time after notice of need.

10) Lighting.

Maintenance and replacement of all street lights and traffic signals and payment for necessary electrical energy.

11) Graffiti removal on public property.

12) Prioritization

PDD shall have the opportunity to participate with City staff from the Department of Public Services in the prioritization of all proposed capital improvement projects within the District including, but not limited to, tree well reconstruction and sidewalk repairs. PDD officials recognize that City staff also work closely with the City Manager's office and the City Council for project priorities.

POLICE SERVICES.

- 1) A minimum of four uniformed patrol officers will intersect all or part of the downtown improvement district area. The actual number of officers will vary depending upon time of day and day of week. During periods when calls for service are typically at their peak, the number of officers assigned will increase significantly, for example during weekend evenings and the summer months. This increase will include foot and bicycle patrols. Officers will be supported with additional personnel (supervisors, detectives, evidence technicians) as necessary.
- 2) As long as the Senior Lead Officer Program is in effect, at least one Senior Lead Officer will be assigned to the Downtown Improvement District area.
- 3) From the Friday following Thanksgiving to New Year's Day, patrol efforts will be supplemented by use of a foot patrol. The number of officers and hours of the assignment is dependent upon staffing levels. Every effort will be made to assign two officers during those hours that retail shops are open.

OTHER MUNICIPAL SERVICES.

Whereas it is the intention of any downtown improvement district program to complement existing City services currently provided by departments or divisions, other than those described above, with supplemental services, the following information shall comprise the baseline of other City services to be provided at City expense.

- 1) Coordination of the use of downtown's public spaces within the District.
- 2) Coordination and staffing City services required for events occurring in downtown Portland.
- 3) As previously existing events, the City will provide necessary services to support the annual Tree Lighting Ceremony and the annual one-day Old Port Festival within the boundaries established by City Council order #168-21/13; to wit: the area bordered by Congress, Pearl, Commercial, Center, Union and Temple Streets and including both sidewalks of Commercial Street with no costs charged to the PDD for these events.

Description of Portland's Downtown District

Beginning at Longfellow Square, at the southwesterly corner of Congress Street and State Street, easterly along Congress Street to High Street;

Thence northwesterly along High Street to Deering Street;

Thence along the easterly side of High Street to Cumberland Avenue;

Thence along the southerly side of Cumberland Avenue, beginning at High Street, to the Franklin Street Arterial:

Thence along the westerly side of the Franklin Street Arterial to Congress Street;
and

Thence along the westerly side of Congress Street to Myrtle Street;

Thence along the westerly side of Market Street to the southerly side of Newbury Street;

Thence easterly along Newbury Street to the westerly side of the Franklin Street Arterial;

Thence along the westerly side of the Franklin Street Arterial to the southerly side of Commercial Street; thence along Commercial Street to the easterly side of Cross Street;

Thence along the northerly side of Commercial Street to Maple Street;

Thence along the easterly side of Maple Street from Commercial Street to the southerly side of Danforth Street;

Thence along the southerly side of Danforth Street in an easterly direction to York Street;

Thence northeasterly to the intersection of Center Street, York Street, and Pleasant Street;

Thence westerly along Pleasant Street from its intersection with Center Street to a passage way, situated at number 15 Pleasant Street according to the street numbering plan as shown on Chart 38, Block E, Lot 23 of the Assessor's Maps on file at Portland City Hall; and

Thence along the easterly side of South Street from number 13 South Street according to the street numbering plan as shown on Chart 38, Block E, Lot 10 of the Assessor's Maps on file at Portland City Hall, to the northerly side of Spring Street;

Thence along the northerly side of Spring Street in a westerly direction to Oak Street;

Thence along the westerly side of Oak Street to its intersection with Pleasant Street;

Thence along Pleasant Street in a westerly direction to the easterly side of High Street; and

Thence along the northerly side of High Street to its intersection with Congress Street.

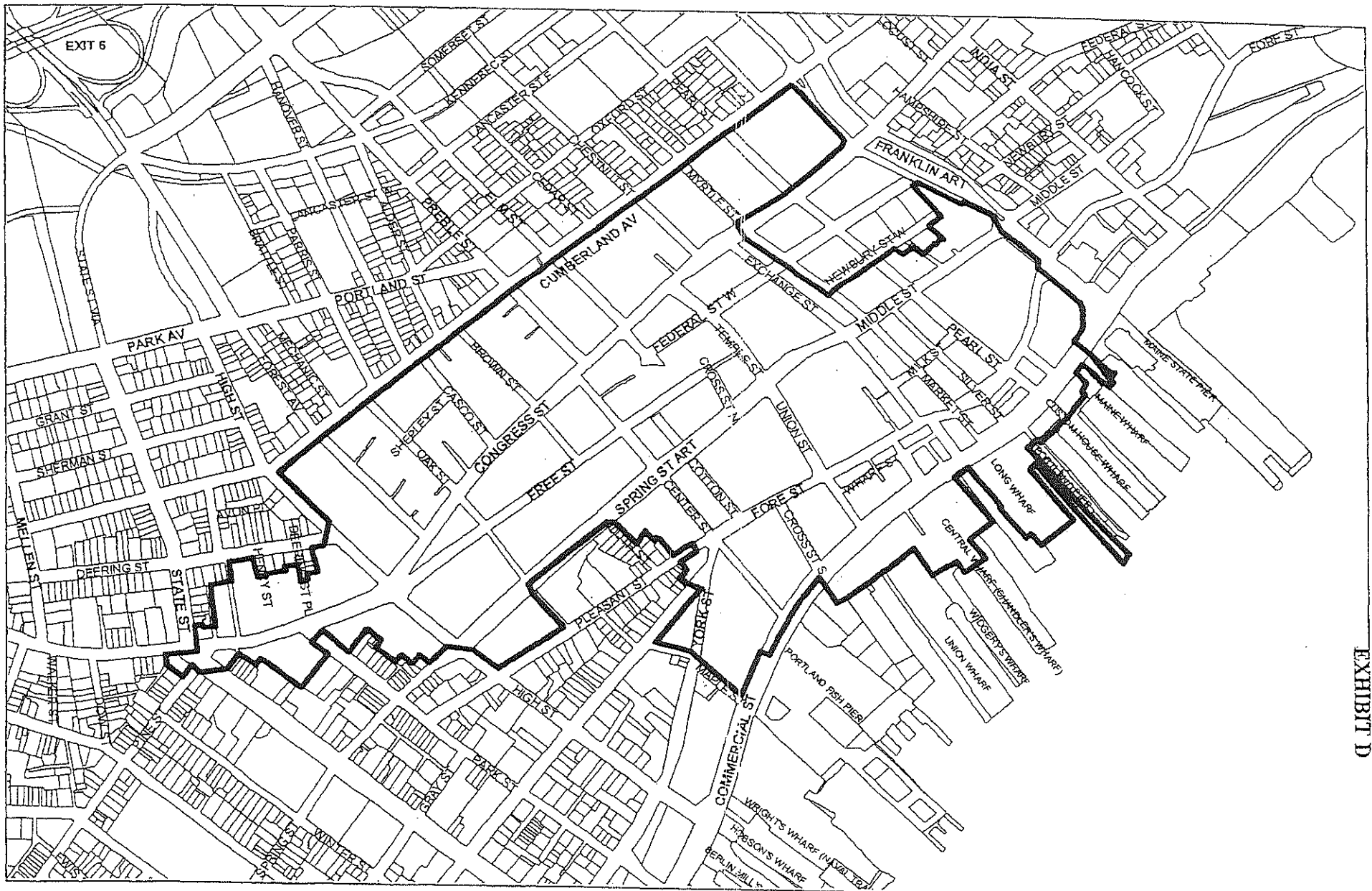


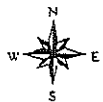
EXHIBIT D

PORTLAND DOWNTOWN DISTRICT

Effective July 1, 2004

Map produced by the City of Portland's GIS Workgroup March 5, 2004

200 0 200 400 600



SUPPLEMENTAL SERVICES AGREEMENT BETWEEN
DOWNTOWN IMPROVEMENT DISTRICT d/b/a
PORTLAND'S DOWNTOWN DISTRICT CORPORATION

AND

CITY OF PORTLAND

AGREEMENT made this ____ day of June, 2015, by and between the City of Portland, a municipal corporation duly organized under the laws of the State of Maine, Cumberland County (hereinafter the "**City**") and the Downtown Improvement District Corporation, d/b/a Portland's Downtown District, a Maine non-profit corporation, having its office and place of business at 549 Congress Street, Portland, Maine (hereinafter the "**PDD**").

W.I.T.N.E.S.S.E.T.H.

WHEREAS, the **City** and **PDD** entered into a Master Agreement of even date establishing mutual rights and responsibilities for the provision of services in the Downtown Improvement District (hereinafter the "**District**"); and

WHEREAS, said Master Agreement established the Baseline Services to be provided by **City** in the District; and

WHEREAS, **PDD** wishes to contract with the **City** to have the **City** provide, on a flexible basis depending upon funds available, Supplemental Maintenance Services in addition to those in the Master Agreement;

NOW THEREFORE, the parties do hereby agree as follows:

1. Supplemental Services: The **City** shall provide the following Personnel and Services (hereinafter the "Supplemental Services") in the District in addition to the Baseline Services provided in the Master Agreement:

- 1.1. Personnel:

One PDD Steward		
One Public Services Supervisor	Days	52 Weeks
Three Maintenance Worker III	Days	52 Weeks
Two Laborers	Days	Seasonal

- 1.2. Persons providing Supplemental Services hereunder shall be assigned by the **City** after providing reasonable opportunity to **PDD** for requests for service. Such persons are not required to be employees of the **City**. Such persons shall not, however, be considered to be employees of **PDD** and **PDD** is not intended, nor shall it be deemed to be, a joint employer with **City**. As between the **City** and **PDD**, **City** shall be responsible for all aspects of employment for all persons supplied by **City** pursuant to this Agreement, including compensation, liability and workers compensation coverage, employment taxes and any applicable fees.

- 1.3 Services to be provided are:

- *Transportation and set-up of materials and equipment for planned special events activities of **PDD** (with proper notification to coordinator)
- *Litter patrol, collection and disposal on streets, sidewalks, and public areas within the District.
- *Graffiti removal from City property
- *Removal of posters
- *Cleaning and painting of all furniture and fixtures
- *Sidewalk sweeping
- *Cleaning of tree wells
- *Weed control in support of other city departments performing 'basic services'
- *Snow clearance at crosswalks and from sidewalks during curb to curb snow removal

- *Installation of Holiday decoration in the District as agreed with PDD, in addition to those described in the Baseline Services provided in the Master Agreement, including electrical energy costs
- *Maintenance and cleaning of Visitor's Booth and Tommy's Park.
- *Clean and maintain the bathrooms, located in the Fore Street Garage and Spring Street Garage buildings, when the bathrooms are open to the public

- 1.3.1. PDD Sidewalk Snow Plowing Program. All property owners in the District assessment area are responsible for maintaining their sidewalks in the winter pursuant to Portland City Code §§25-173(C) and 25-174(C), including snow removal from their property line to the street gutter and ice control.
- 1.3.2. Following a snow storm, the **City** will provide a clear walkway no less than the width of a Holder's capability. To the extent reasonable, the **City** will clear the sidewalk area but it is not the intent of the parties that the **City** will clear the snow from the full width of the sidewalk area. The City will provide ice control to the extent possible. If weather conditions are so severe that the area cannot be plowed due to equipment capability, the **City**, in its discretion, may choose not to provide sidewalk snow plowing without penalty.
- 1.3.3. Management of Supplemental Services. The City's Public Services Director and/or Designee and PDD's Executive Director and/or Designee agree to meet and communicate on a monthly basis with meeting agendas to ensure quality control in service delivery is meeting expectations; providing updated information on service activities, programs and projects. The Public Services Department will provide a staff contact to PDD for direct communications, which is identified as the Districting Supervisor and

PDD Supervisor. A point of contact for PDD officials is the PDD Supervisor and District Coordinator. Conversely, the City of Portland Department of Public Services looks to the PDD Executive Director or designee as the City's point of contact on all issues involving PDD matters. A complete work plan and list of Services provided under this FY2016 agreement is provided in Exhibit A hereto.

2. Term: The term of this Agreement is from July 1, 2015 through June 30, 2016.
3. Budget and Payment: In consideration for these Supplemental Services, **PDD** agrees to pay the **City**, in equal quarterly installments, for all Supplemental Services provided hereunder the total sum of \$335,329 for FY2016. The **City** shall bill and **PDD** shall pay the **City** beginning July 1, 2015, a quarterly payment of \$83,832.
 - 3.1. In the event **PDD** requests services from **City** in addition to those included herein, **City** shall have the option, in its sole discretion to provide such services, with payment to be made by **PDD** for any such services on a Time and Materials basis, or such other basis as the parties may agree in writing. "Time" as used herein shall mean all of the **City's** employee costs, i.e. hourly wages or salary. "Materials" as used herein shall mean the actual cost to the **City** of equipment, materials and/or supplies provided or used, with no additional markup.
4. Modifications: It is understood and agreed by the parties that **City** has adopted an expenditure budget which includes the cost of these Supplemental Services and has adopted a revenue budget which provides for the reimbursement of such costs by **PDD** as provided hereunder. In the event that either **PDD** or the **City** anticipates that there will be insufficient revenues to pay for such Supplemental Services, said party will notify the other party of the anticipated shortfall, and the parties agree to meet promptly and confer to modify the level of Supplemental Services which the **City** is able to provide. It shall be the

responsibility of **PDD** to notify **City** as soon as reasonably possible if such Supplemental Services need to be modified or adjusted for anticipated revenue shortfalls or modifications. In the event of a revenue shortfall, the **City** will have no obligation to provide Services in excess of **PDD** funds available to reimburse **City**; however, **City** will have the right, but not the obligation, to continue to provide Supplemental Services to the extent provided in the **City** budget even in the event of a revenue shortfall. The parties agree to memorialize in writing any changes in the monthly payments due under Section 3 above.

- 4.1. Either party may terminate or modify this Agreement in the event of a budget shortfall upon no less than Sixty (60) days prior written notice to the other party.
 - 4.2. In the event Supplemental Services are terminated for any reason by either party, it shall be in **City**'s discretion as to whether it will continue or resume providing such Supplemental Services.
 - 4.3. **PDD** agrees to give the City Manager or the Manager's designee advance written notice of any formal meeting of its Directors or Officers at which modification of the current year Supplemental Services budget is to be discussed or considered, and to permit the attendance of **City** representative at such meeting. **City** and **PDD** agree to provide copies of draft budgets for the upcoming fiscal year reasonably in advance of any final decision by **PDD** or the **City** as to said budget, and the parties agree to meet and confer in regard to such budgets.
5. **City**'s representative in regard to provision of Supplemental Services hereunder is the City Manager or the Manager's designee.

(Rest of page left intentionally blank.)

IN WITNESS WHEREOF, the City and PDD have signed this Agreement through their authorized representatives as of the day and date above written.

Witness:

City of Portland

By:

Michael Sauschuck
Its Acting City Manager

Witness:

Downtown Improvement District
d/b/a Portland's Downtown
District

By:

Michael Mastronardi
Its Board Chair

EXHIBIT A
to Supplemental Services Agreement
(Supplemental Services Work Plan and Event
Support for FY2016)

MEMORANDUM RELATED TO THE
SUPPLEMENTAL SERVICES AGREEMENT (SSA) BETWEEN
THE DOWNTOWN IMPROVEMENT DISTRICT dba
PORTLAND'S DOWNTOWN DISTRICT (PDD)
AND
THE CITY OF PORTLAND (City)

(July 1, 2015 - June 30, 2016)

This memorandum is a good faith attempt to define certain services, programs and events, and to achieve an improved level of satisfaction for both the **City** and **PDD**. It is generally understood that the city's Baseline Services, as articulated in Exhibit B of the Master Agreement, do not overlap or replace the services and programs incorporated in the SSA.

Also, listed are the specific special events produced by **PDD** for the benefit of the **City** and its property owners, residents, businesses and visitors, during the contract period.

The ongoing relationship between **PDD** and the **City** has evolved, along with the needs and expectations of both parties. The goal of this document is to improve coordination, establish priorities, clarify services and responsibilities, and list events covered under the terms and conditions of the SSA. The result will be to produce a more proactive, performance-based approach to the maintenance, cleanliness and overall attractiveness of downtown Portland.

1. FY 2016 City Personnel Work Plan

The City personnel assigned to perform services under the Supplemental Services Agreement are expressed in the FY2016 Portland Public Services Budget detail. For the current period of July 1, 2015 through June 30 2016 these personnel are:

1. (1) Public Services Supervisor
2. (1) PDD Steward
3. (3) Maintenance Worker III
4. (2) Seasonal Part-Time Maintenance Worker

Staffing levels may change on an occasion to account for employee leave coverage, emergencies or other unforeseen circumstances. However the City of Portland, Department of Public Services commits to continue to provide the general list of services provided by these personnel under the SSA.

- 1.1 The general list of services provided by these personnel is identified within the SSA under item 1.3. These shall not overlap services provided within Baseline Services (Exhibit B to Master Agreement).
- 1.2 The Public Services Supervisor shall inspect the entirety of **PDD at least once** every two weeks. During this inspection particular attention shall be focused on, but not limited to, the overall cleanliness and maintenance of the sidewalks, streets, trash containers, graffiti removal, open spaces, furniture and fixtures, lights, signage, the visitor kiosk and public restrooms. The status of projects or work orders in process should be continually updated. The results of each inspection shall be logged and documented; a monthly report will be presented every month.

- 1.3 The Public Services Supervisor shall direct the maintenance personnel on their daily responsibilities by producing a weekly schedule highlighting project activities and goals. The Supervisor will participate and assist the team in achieving project activities, as needed.
- 1.4 Horticultural and landscaping duties shall be in support of city personnel and departments assigned to these tasks. PDD dedicated personnel should assist (for instance with weed control and seeding) on an as needed basis, as time and normally assigned duties allow.
- 1.5 Sidewalk plowing and snow removal at intersections should be accomplished as soon as is reasonably possible during and following a snow event. If a yellow ban is called, sidewalk snow removal, as indicated in sections 1.3.1 and 1.3.2 of the SSA, should be completed within the same timeframe as city personnel and contracted partners remove snow from the District's streets and parking areas. The Department of Public Services will organize an annual winter briefing with downtown contract partners that remove snow on sidewalks and plazas to review best practices regarding coordinating work activity. This meeting will typically occur in late fall/early winter.
- 1.6 "Quick response" repairs, such as missing bricks, landscaping damage or graffiti removal shall be performed by PDD personnel, as soon as possible. PDD and City will jointly approve each quick response, as needed.
- 1.7 PDD and City will prioritize larger projects within the District generally

included in baseline services or CIP, and managed by other **City** teams or departments. These include, but are not limited to, major sidewalk repairs, tree well rehabilitation, landscape installations and other reconstruction projects. These District projects will be prioritized with input from **PDD**, and may include **PDD** personnel in their execution. Progress and status shall be monitored by the **PDD** supervisor, and updated as part of the monthly reporting.

- 1.8 **PDD** will monitor performance of City teams through specific **PDD** access to "See, Click and Fix" software.
- 1.9 **PDD** dedicated personnel will wear approved uniforms and work clothes at all times when on duty. **City** and **PDD** agree to work jointly on uniform decisions, including recommendations on an alternative uniform for **PDD** personnel.

2. FY2016 PDD Event Support Plan

PDD and the **City** recognize the value that well executed events bring to the vitality and economic development of the downtown. To that end, **PDD** agrees to follow the **City's** established permitting process and with the exception of the events as outlined in Exhibit B, Baseline Services, agrees to reimburse the City for actual expenses, as agreed to by both parties, required to support these events.

In FY2016, **PDD** is planning major events that require a level of support by **City** personnel.

PDD plans to incorporate recycling at all produced events, with support of the **City** staff, volunteers and supplied receptacles.

- 2.1 The Old Port Festival (OPF) - The OPF will operate from June 11-14, 2015. Sunday,

June 14, events will require closure of streets generally in the Old Port area.

- 2.2 Light Up Your Holiday Celebration (LUYH) - This annual roster of events around the Christmas holidays include a LUYH First Friday Artwalk with Congress Street closure from approximately 6-8pm. The Christmas tree lighting ceremony on the Friday after Thanksgiving, which requires set up and some street closures, along with minor transit re-routing around Monument Square. Horse-drawn carriage rides in the downtown and the merchant event called Merry Madness generally requires no specific city personnel support.
- 2.3 Portland Winterfest - This event will be held in January or February 2016, with a date to be confirmed.
- 2.4 Downtown Workers Appreciation Days - Generally held twice a year in early May and mid-October to recognize the employees of businesses and government offices located within the downtown. **City** and **PDD** provide set up and management of 3 stations located at the Portland Museum of Art, Monument Square and Tommy's Park.
- 2.5 Seasonal lights by Pandora - Lights are installed around the time that Day Light Savings Time ends in the late fall, and de-installed around the time that Day Light Savings Time begins again in the early spring. **PDD** personnel provide some installation support.

*Order 272-14/15
Tab 11 6-1-15*

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 AND APPROPRIATING A PORTION OF FUNDS FROM
THE SALE OF UNIT 1 AT PORTLAND TECHNOLOGY PARK TO BE USED FOR
THE NATURAL GAS CONNECTION**

ORDERED, that the City Council hereby authorizes a portion of the proceeds, not to exceed \$80,000.00, from the sale of Unit 1 at the Technology Park to Patrons Oxford Insurance Company, to connect natural gas to the Portland Technology Park.

BE IT FURTHER ORDERED, that the City Manager or Acting City Manager is hereby authorized to execute whatever documents are necessary to affect the intent and purpose of this allocation.



Economic Development Department
Gregory A. Mitchell, Director

MEMORANDUM

TO: City Council

FROM: Greg Mitchell, Economic Development Director

DATE: May 15, 2015

SUBJECT: **Recommendation to City Council for Order Authorizing a Portion of Funds from the Sale of Unit 1 at Portland Technology Park to Patrons Oxford Insurance be Appropriated to Connect Natural Gas to Portland Technology Park (PTP)**

SPONSOR: Finance Committee/Councilor Nicholas Mavodones, Chair

1. Council meeting at which action is requested: First reading: June 1, 2015; second reading and vote: June 15, 2015
2. Can action be taken at a later date? No

If no, why not? Approval is requested by June 15 for installation of natural gas lines to be done during 2015.

PRESENTATION: Greg Mitchell/5 Minutes

I. SUMMARY OF ISSUE

Natural gas service is needed at the Portland Technology Park to be available to occupants, including bioscience manufacturers and technology-related companies.

The Council previously approved two easements to Unitil for installation and maintenance of a natural gas line from the natural gas main on Westbrook Street to the Technology Park. The new gas line will connect to the existing line installed under the completed Phase 1 section of the Park road. (See Attachment 1 – Proposed route of the 20' wide gas line.)

The nearest natural gas main is on Westbrook Street. Over several years, various routes to bring natural gas to the Technology Park were considered. The proposed route is recommended as it is a lower cost option that will minimize impacts to the environment and infrastructure expense.

II. REASON FOR SUBMISSION

Staff seeks authorization from the Council to appropriate a portion of the proceeds from the sale of Unit 1 at the Technology Park to Patrons Oxford Insurance to cover the costs needed for bringing natural gas to the Park.

III. INTENDED RESULT

With natural gas in place, marketing the two available sites at the Technology Park will enhance the City's ability to sell them. Importantly, the Patrons Oxford Purchase and Sale Agreement commits the City to complete a natural gas service connection into the Park.

Further, bringing natural gas to the Technology Park also makes natural gas accessible to the Pine Tree Industrial Park located on Rand Road. Occupants of that Park have expressed an interest in natural gas service, which, to date, has not been available to them. Once natural gas is brought to the Technology Park, it only needs to cross Rand Road for some of the businesses located in the Pine Tree Industrial Park to access it.

IV. COUNCIL GOAL ADDRESSED

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

Unit 1 at PTP is currently under a Purchase and Sale Agreement with Patrons Oxford for the purchase price of \$625,000.

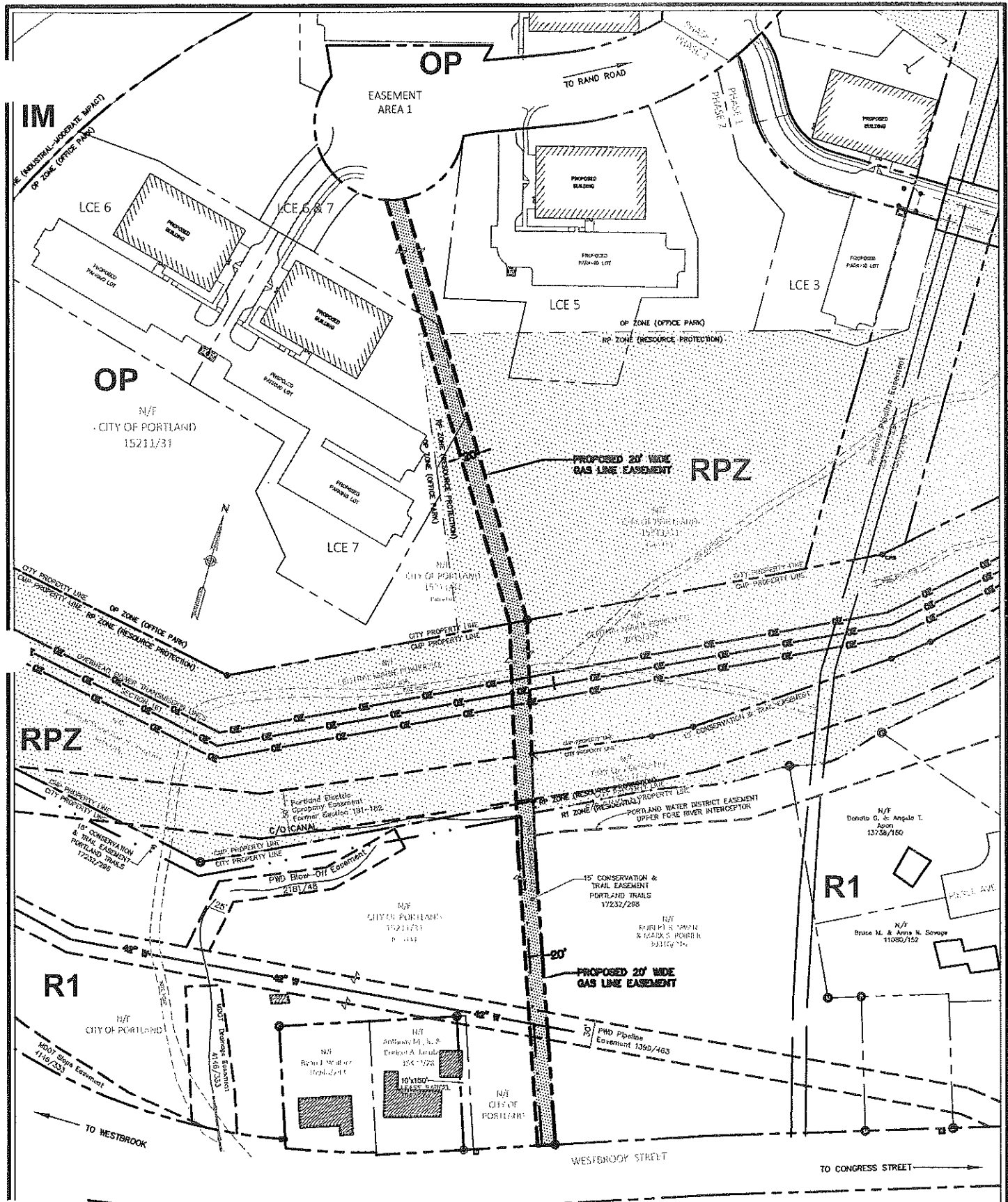
The estimated costs needed for bringing natural gas line to PTP is up to \$80,000. Using a portion of the sales proceeds from the sale of Unit 1 at \$625,000, less the broker fee and the utility costs, will net the City \$501,250.

VI. ANALYSIS AND RECOMMENDATION

Staff is presenting this to the Finance Committee on May 28th with a recommendation that a portion of the proceeds from the sale of Unit 1 at PTP be appropriated up to \$80,000 to fund the costs needed to extend natural gas to the PTP.

VII. ATTACHMENTS

1. Proposed Gas Line Route



CITY OF PORTLAND
PUBLIC SERVICES
ENGINEERING DIVISION

PROPOSED GAS LINE EASEMENT for the Portland Technical Park

C3D PROJECT: Rand Rd - Land Services Inc (DPW copy)
DRAWING: Exhibit_B_PropGAS_Easmnt2015.dwg

SCALE:

1" = 150'

DATE:

01/29/2015

4 of 16

Order 273-14/15
Tab 12 6-1-15

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 AGREEMENT WITH
THE MAINE DEPARTMENT OF TRANSPORTATION
FOR 2015 MUNICIPAL PARTNERSHIP INITIATIVE (MPI) PROJECT
TO PAVE WASHINGTON AVENUE**

ORDERED, that the City Manager or Acting City Manager is authorized to enter into a two-party agreement between the City of Portland and the Maine Department of Transportation, in substantially the form attached, for the 2015 Municipal Partnership Initiative (MPI) Project to pave a portion of Washington Avenue and Washington Avenue Extension.

BE IT FURTHER ORDERED, that the City Manager or Acting City Manager is hereby authorized to sign the two-party agreement and any other documents necessary to effect the purpose of this order.

MEMORANDUM
City Council Agenda Item

TO: City Council

FROM: Michael Bobinsky, Director of Public Services

DATE: May 20, 2015

DISTRIBUTION: Michael Sauschuck, Acting City Manager
Michael Brennan, Mayor
Danielle West-Chuta, Corporation Counsel
Nancy English, Admin. Asst. to Corporation Counsel
Julie Sullivan, Acting Chief of Staff
Judy Rosen, Senior Administrative Assistant

SUBJECT: Order to approve MaineDOT/City agreement for 2015 Municipal Partnership Initiative (MPI) Project to pave Washington Avenue

SPONSOR: Michael Sauschuck, Acting City Manager

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading June 1, 2015

Final Action June 15, 2015

Can action be taken at a later date: X Yes No (If no why not?)

NOTE - Action must occur in time to allow project to be designed, bid, and construction commenced within twelve months of the agreement.

PRESENTATION: N/A

I. SUMMARY OF ISSUE (Agenda Description)

The Department of Public Services requests approval for the Acting City Manager to enter into a two-party agreement with MaineDOT so we may proceed with design and bid advertisement to rehabilitate a portion of Washington Av and Washington Av Extension. The total value of investment is estimated to be \$775,000 and the 50% Local cash obligation is estimated to be \$387,500.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

The City cannot proceed with final design and bid document preparation without this agreement being executed. Failure to execute this agreement could result in deferral or elimination of leveraged funding for this MaineDOT – City Partnership project.

III. INTENDED RESULT

Execution of these agreements allows for:

- 1) Resurfacing of Washington Av between Presumpscot St and Ocean Av

2) Full depth reclamation of Washington Av Ext between Auburn St and Lambert St

IV. COUNCIL GOAL ADDRESSED

From the Capital Improvement Plan Scoring Criteria, these projects would rate highly in these categories: (B) Impact of Service to the Public; (C) Asset Maintenance Need; (D) Funding Source; and (E) Budget Impact.

V. FINANCIAL IMPACT

The total value of the project is currently estimated at \$775,000 and the required 50% Local investment is estimated up to \$387,500 of that total. The Local funds are appropriated in the FY13, FY14 and FY15 CIP, and includes revenue from street opening surface restoration fees.

Project	Account	Current Local Cost
FHWA/PACTS Washington Res	C13111	\$35,000
PACTS Wash/ Presumt/Ocean	C14107	\$170,000
Paving Rehab	C15106	\$152,680
Street Openings – Utility Restor Fees	--	\$29,820
	<i>Totals:</i>	<i>\$387,500</i>

VI. STAFF ANALYSIS & RECOMMENDATION

The Department of Public Services recommends approval of this agreement in order to accomplish significant pavement preservation on Washington Av and Washington Av Extension at half the normal cost.

VII. LIST ATTACHMENTS

Two-party agreement for:

- Washington Av and Washington Av Extension - (WIN 20232.35)

Prepared by:

Gretel Varney, PE, Sr. Project Engineer

Signature

Date

<i>Internal Use Only</i>	
CT#:	TEDOCS #: _____
	CSN#: _____

**STATE OF MAINE DEPARTMENT OF TRANSPORTATION
MUNICIPAL PARTNERSHIP AGREEMENT**

WIN 20232.35

REGARDING

WASHINGTON AVENUE / WASHINGTON AVE EXT, PORTLAND

This Cooperative Agreement (AGREEMENT) is entered into by and between the MAINE DEPARTMENT OF TRANSPORTATION ("MaineDOT"), an agency of state government with its principal administrative offices located on Child Street, Augusta, Maine, and the CITY OF PORTLAND ("Portland"), a municipality in the State of Maine with offices located at 389 Congress Street, Portland, ME.

WHEREAS, Portland shall perform highway Mill and Fill with ADA and Signal upgrades of Washington Ave beginning at the intersection of Presumpscot St to the intersection of Ocean Ave.

WHEREAS, Portland shall perform a Full depth reclaim with cement of the Washington Ave Extension, beginning at the intersection with Auburn St to the intersection of Lambert Street.

WHEREAS, Portland estimates these projects at \$775,000

NOW THEREFORE, the parties hereby agree as follows: (The following information provides the scope of work for the services that Portland will perform under this AGREEMENT.)

PORTLAND SHALL:

- A. Shall procure and oversee a highway improvement project for Washington Ave and Washington Ave Extension.
- B. Perform such work in accordance with a design by an engineer licensed in the State of Maine. The Licensed Engineer shall provide a certification to the Municipality and to MaineDOT that, in his/her professional opinion, the Project as designed will provide a smooth ride, not reduce the safety, mobility or structural quality of the state [state aid] road. All design documents must be stamped and signed in accordance with this provision by the Professional Engineer.

- C. Agrees to secure all necessary Federal, State and Local permits necessary to complete the work. Portland also agrees to secure any needed property rights in accordance with all applicable State and Federal Law.
- D. Agrees that any exceptions to State Design Standards shall be documented as part of this process. This documentation shall compare the new design to the existing conditions for each of the exceptions to current design standards. Any such exceptions shall be displayed on the cover sheet for the Project plans with the signature and PE stamp of the engineer responsible for the design of the Project.
- E. Be responsible, within the Project limits, for the following:
 - a. Ensuring that the safety of the corridor and the life of the resulting structural and design elements are equal to or better than existing conditions and design;
 - b. Ensuring that the structures, roadways and/or design features affected by the Project work shall, at a minimum, be of equal dimensions to the existing features or structures and shall be of improved quality in terms of materials and utility;
 - c. Ensuring that the Project does not introduce any unanticipated safety hazards to the traveling public;
 - d. Ensuring that the Project retains the same level of mobility or improves mobility of travel within the corridor; and,
 - e. Ensuring that the Project does not in any manner decrease the life expectancy of this component of Maine's transportation system.
 - f. Ensure the project meets the most recent Americans with Disabilities Act of 1990 (ADA) design requirements to the maximum extent feasible.
- F. Provide certification through their Engineer to MaineDOT that the project is complete and was constructed as designed.
- G. Construction shall commence within twelve (12) months and shall be certified complete within thirty six (36) months of execution of this agreement. Portland may forfeit the unpaid balance of this grant if these deadlines are not met or they can not demonstrate earnest and good faith efforts to meet them.

MAINEDOT SHALL:

- A. **Provide a maximum of \$387,500.00 in State funds supporting the project work stated above.** Reimbursement will be made by the Department at a minimum of 1/3 project completion upon receipt of supporting cost documentation from the Municipality. Payments will be made per Appendix A, attached. The Department's Region Engineer shall review the costs and certify their eligibility prior to reimbursement of Municipal Partnership Initiative Funds. Payment by MaineDOT Municipal Partnership Initiative funds shall not exceed **\$387,500.00** or 50% of the actual costs incurred and paid by the Municipality.

City of Portland and MaineDOT agree to function within all applicable laws, statutes, regulations, and AGREEMENT provisions; avoid hindering each other's performance; fulfill all obligations diligently; and cooperate in achievement of the intent of this AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT in duplicate effective on the day and date last signed.

CITY OF PORTLAND

Dated: _____

By: _____

Michael Sauschuck
Acting City Manager

**STATE OF MAINE
DEPARTMENT OF TRANSPORTATION**

Dated: _____

By: _____

David Bernhardt, PE
Commissioner

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

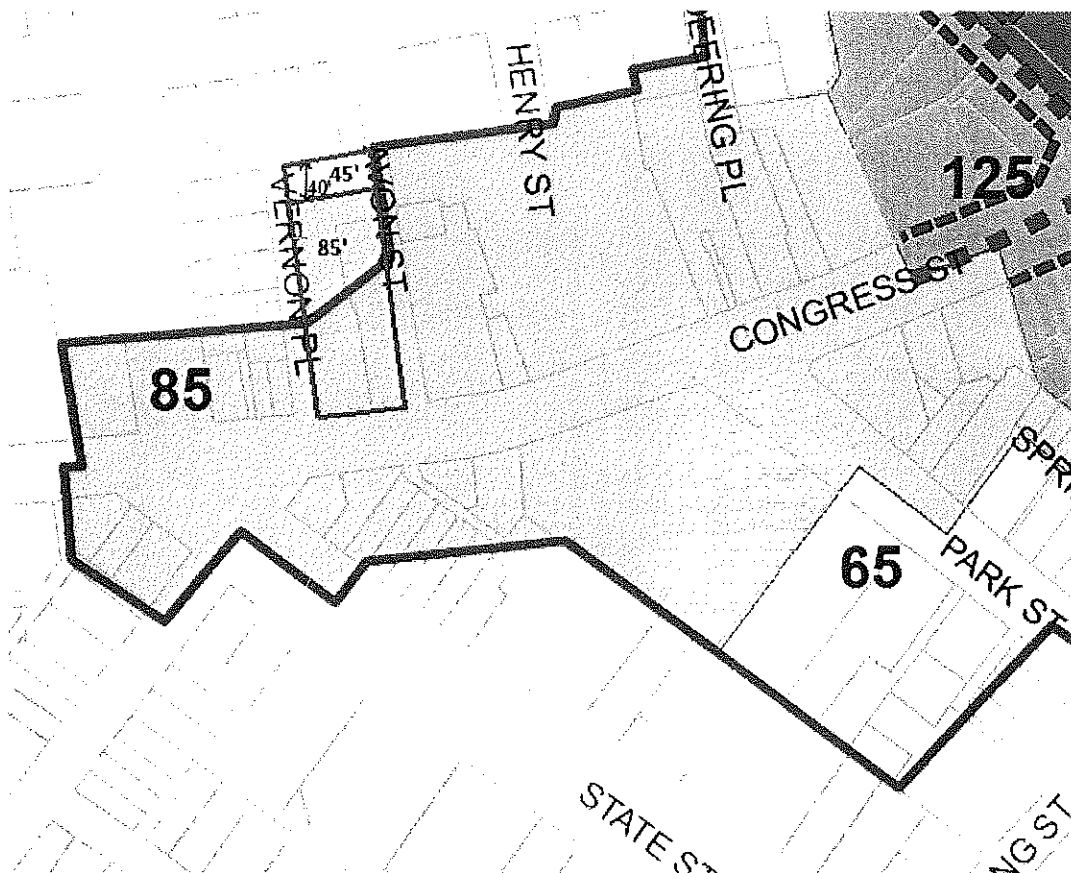
**CITY OF PORTLAND
IN THE CITY COUNCIL**

*Order 274-14/15
Tab 13 6-1-15*
DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
JON HINCK (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO ZONING MAP
RE: 667 CONGRESS 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 R-6 area in the blue rectangle in the figure below to B-3; and



BE IT FURTHER ORDERED, that the Downtown Height Overlay Map be and hereby is amended by adopting the map change amendment as depicted in the same area map.

MEMORANDUM
City Council Agenda Item

TO: Mayor Brennan and Portland City Council

FROM: Alexander Jaegerman, Planning Division Director

DATE: May 18, 2015

DISTRIBUTION: Police Chief Michael Sauschuck, Acting City Manager, Mayor Brennan, Sonia Bean, Danielle West-Chuhta, Corporation Counsel, Jennifer Thompson, Nancy English, Julie Sullivan

SUBJECT: Zoning Map Amendment for the property at 667 Congress Street

SPONSOR: Stuart O'Brien, Chair, Portland Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading: June 1, 2015 **Final Action:** June 15, 2015

Can action be taken at a later date: ☒ Yes No (If no why not?)

PRESENTATION: (List the presenter(s), type and length of presentation)

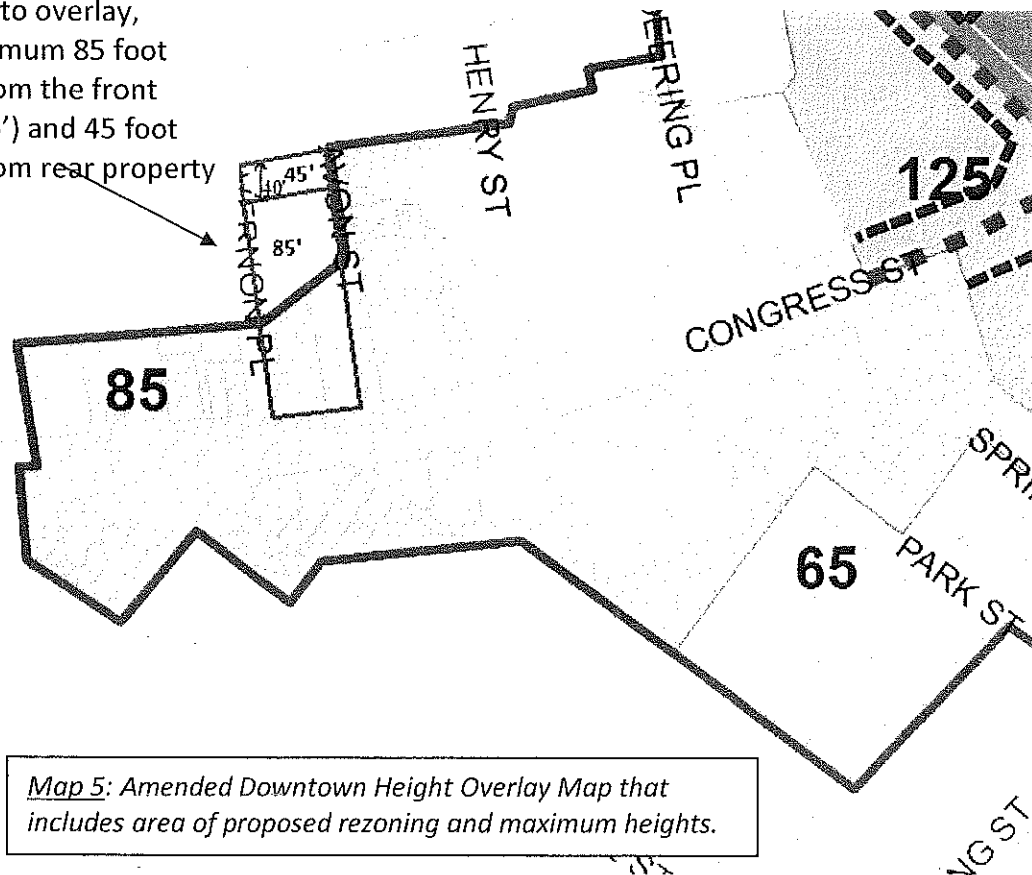
Stuart O'Brien, Chair, Planning Board – 5 minutes- To present Planning Board's recommendation.

I. SUMMARY OF ISSUE (Agenda Description)

Jonathan Cully of Redfern Properties is requesting a zoning map amendment for the property at 667 Congress Street. Redfern Properties is working in partnership with MSD Properties, LLC and Joe's Super Variety to redevelop the property. The site is divided by two different zones; the front portion along Congress Street is in the B3 zone and the rear portion is in the R6 zone. The applicant is seeking to extend the B3 zone to include the R-6 portion in the rear of the property, making the site consistent with the zoning on adjacent properties to the east and south. The density limits and height limitation in the R6 zone constrain the redevelopment of this site. The split zoning of the site does not accommodate an integrated development for a multifamily apartment building with Joe's Super Variety occupying the first floor along Congress Street and structured parking below the building. The proposed zone amendment includes extending the Downtown Height Overlay map to be contiguous with the B-3 map amendment. The maximum building height is proposed to be 85 feet for the majority of the site with a maximum building height of 45 feet for the rear 40' of property, which is adjacent to the R-6 zone along Deering Street (see Map below). The Downtown Entertainment Overlay Zone would also be extended to cover the rezoned area as part of the map amendment, since it refers explicitly to and is defined by the B3 zone by ordinance.

On May 12, 2015, the Planning Board voted unanimously 4-0 (O'Brien, Hall and Morrisette absent) found the proposed zoning map amendments to be consistent with the comprehensive plan and recommended adoption of the amendments to the City Council to rezone 667 Congress Street from Residential (R-6) to Downtown Business (B-3) and the concurrent amendments to modify the Downtown Height Overlay Map to extend the 85 foot maximum building height for a majority of the site with a 45 foot maximum building height limit for 40 feet from the rear the property line.

Area to be added to overlay, permitting a maximum 85 foot building height from the front property line (185') and 45 foot building height from rear property line (40')



II. REASON FOR SUBMISSION (Summary of Issue/Background)

The applicant is seeking to develop approximately 132 residential units on the site, thus the B-3 zone is requested in order to achieve the overall density and building height for the project. The density limits and height limitation in the R6 zone constrain the redevelopment of this site. Thus the applicant is proposing to change the R6 portion of the property to the B3 zone so the entire property would be under the B-3 zone. The B3 zone runs the length of Congress Street from State Street to Franklin Arterial. On the applicant's site, the B-3 zone is approximately 100 feet deep on the Vernon Place side and 150 feet on the Avon Street side. The depth of the B-3 zone is 280 feet on the adjoining property to the east along Congress Street.

III. INTENDED RESULT

The applicant is proposing to extend the B3 zone to include the rear portion of the property, making the lot consistent with the zoning on adjacent properties to the east and south (refer to map amendment on page 1). The applicant is seeking the zoning amendment in order to allow an integrated development of a seven- to eight-story multifamily apartment building with Joe's Super Variety occupying a portion of the first floor along Congress Street. The basement and first level will house the parking spaces (59 on the basement level and 49 spaces on first level, 108 in total) for the building uses. The remaining floors would be the rental apartments. The site would be accessed via two entrances: one off of Avon Street and one off of Vernon Place. Parking, access and other aspects are conceptual at this stage.

IV. COUNCIL GOAL ADDRESSED

The proposed zoning text amendments and map amendments are intended to meet the City Council goal to “[p]rovide 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

There is no anticipated financial impact to the city.

VI. ANALYSIS

As stated previously, the applicant is proposing that the site will consist of approximately one hundred and thirty-two (132) rental units. The site area is approximately 25,740 sq. ft. Congress Street is one of central streets located on the peninsula and is within walking distance of downtown or other work places and shopping.

The site is a relatively large parcel in the R6 and B3 zones with a business use and the bulk of the site is used for surface parking. The B3 zone stretches along Congress Street from State Street to Franklin Arterial. The parcel is a good candidate for the B3 zone and is suitable for larger scaled projects and density on a street that has significant variety of building types and scale. The buildings to the east of this property are within the B-3 zone and include the Trelawney Building at 655 Congress Street and an apartment building at 645 Congress Street. While the depth of the B-3 zone is 280 feet on the adjoining property to the east, it seems that the proposed site may have been the transition property between the B-3 and R-6 zones. As part of the proposal for the rezone, the Planning Board recommended that the back portion of the lot for a depth of 40 feet from the property line be a maximum height of 45 feet.

The Planning Board found the proposed amendment to be consistent with the Housing goals and policies of the Comprehensive Plan. The Comprehensive Plan encourages development of infill projects on the peninsula, with less required parking spaces to promote walking to work and shopping or to utilize public transportation. The proposed zone change will provide increased density in an area that is central to services such as businesses, institutions, employers and public transportation. It will also provide compact in-city living for renters that represent a variety of income levels. The lower building height of 45 feet for the rear 40 feet of the lot provides a transition and protects the adjoining R-6 neighborhood.

VII. PLANNING BOARD RECOMMENDATION

At the May 12, 2015 public hearing, the Planning Board voted unanimously (4-0, O’Brien, Hall and Morrisette absent) found the proposed Downtown Business (B-3) map amendment and the concurrent amendments to modify the Downtown Height Overlay Map to extend the 85 foot height limit into the rezoned area with a 45 foot height limit for 40 feet at the rear of the property line to be consistent with the Comprehensive Plan and recommends adoption of the proposed amendments to the City Council.

VIII. LIST ATTACHMENTS

Planning Board Report to City Council, dated May 18, 2015

Prepared by: Shukria Wiar

Date: May 13, 2015



CITY COUNCIL REPORT PORTLAND, MAINE

B3 Zoning Map Amendment for Rental Apartments
Level III Zoning Map Amendment
2015-041
Redfern Properties, Applicant

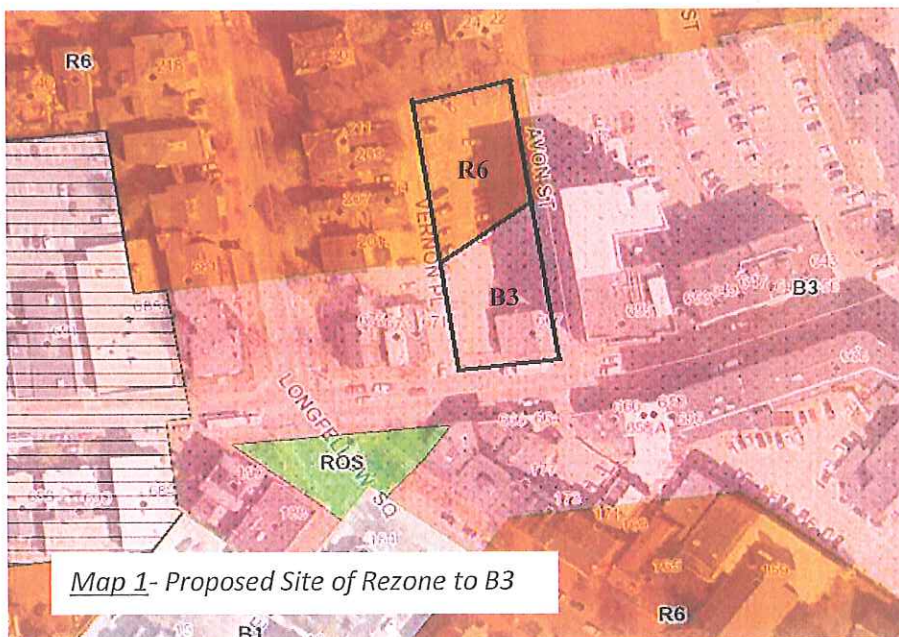
Submitted to: Portland City Council
First Reading: June 1, 2015
Second Reading: June 15, 2015

Prepared by: Portland Planning Board
Date: May 18th, 2015

I. INTRODUCTION

On May 12, 2015, the Planning Board voted unanimously (4-0, O'Brien, Hall and Morrisette absent) to recommend to City Council a map amendment for the property at 667 Congress Street held by MSD Properties, LLC, Jonathan Cully of Redfern Properties and Joe's Super Variety. The proposed map amendment changes the zoning from Residential (R-6) to Downtown Business (B-3) for the entire parcel. The concurrent amendment modifies the Downtown Height Overlay Map to extend the 85 foot height limit into the rezoned area, with the exception that it establishes a 45 foot height limit for rear 40 feet of the property line. The Board found the proposed map amendments to be consistent with the Comprehensive Plan and recommends adoption of the amendments to the City Council.

The site is divided by two different zones; the front portion along Congress Street is in the B3 zone and the rear portion is in the R6 zone. The applicant is requesting an extension of the B3 zone to include the R-6 portion in the rear of the property, making the site consistent with the zoning on adjacent properties to the east and south. The applicant is seeking the map amendment in order to allow for an integrated development of multifamily apartment building with Joe's Super Variety occupying the first floor along Congress Street with parking behind the storefront.



The site is in the Congress Street Historic District and abuts The Deering Street Historic District at the rear property line. The property proposed for rezoning totals approximately 25,740 square feet with 98 feet of frontage on Congress Street. It also has frontage along Avon Street and Vernon Place. The portion of the property proposed for rezoning to B3 is currently within the R6 zone.

The modification of the B-3 Downtown Height Overlay Zone is proposed to encompass the area of the proposed zone change, which would establish 85 feet as the maximum height limit for the

lot. The zone change would also, in effect, extend the Downtown Entertainment Overlay Zone, which is defined by the boundaries of the B3, B3(c) and WCZ zones.

II. PROJECT DATA

Parcel Size:	25,740 sq ft: 12,221 sq ft in B3 zone and 13,519 sq ft in the R6 zone
Current Zoning:	Residential R6 and Downtown Business B3
Proposed Zoning:	Downtown Business B3
Existing Uses:	Retail; Surface parking
Proposed Use:	Multifamily Rental Units - Approximately 130 units, retail, and structured parking

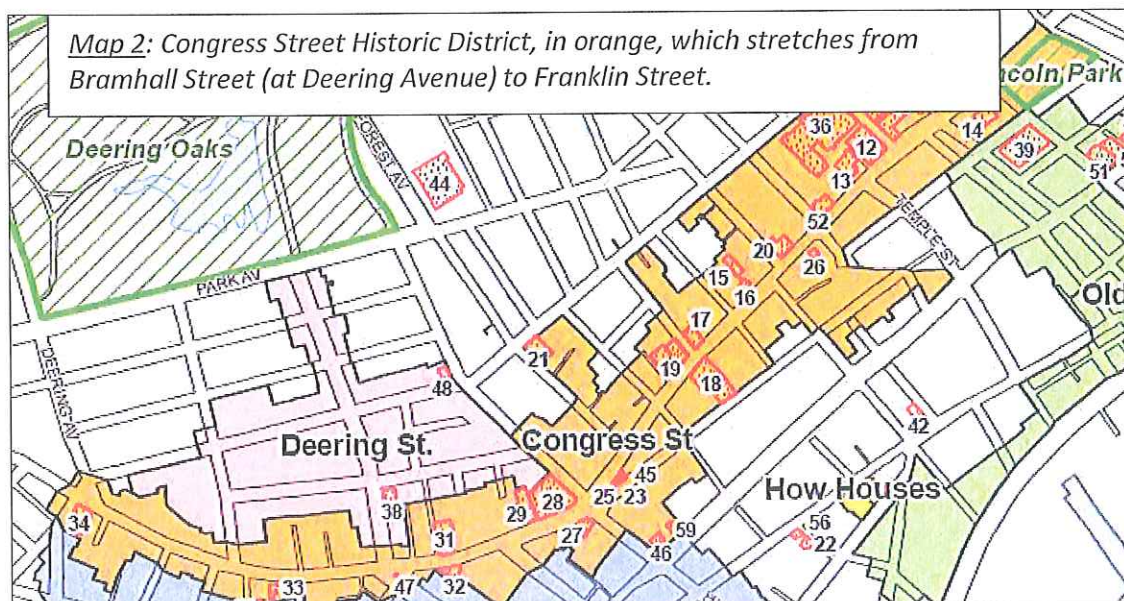
III. EXISTING CONDITIONS AND ZONING

The site is split between the R6 and B3 zones. The north and north-west sides of the site abut the Deering Street neighborhood, which is composed of single and multifamily homes (all within R6 and the Deering Street Historic District). The property is located within the Congress Street Historic District. The properties directly across Congress Street are marked by residential multi-family development and commercial businesses.



Figure 1- Existing Site from Congress Street

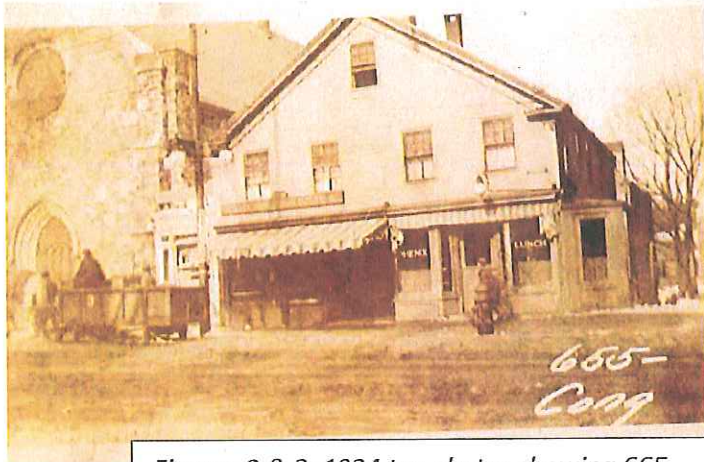
Currently, the site contains a two and half story building that houses Joe's Smoke Shop and a surface parking lot with approximately 58 parking spaces that are rented to abutting properties. Avon Street is a one way street that goes through to Deering Street, whereas Vernon Place is a two-way, dead-end street. Both streets are public streets. There is one entry to the parking area via Vernon Street. There are three curb cuts on Avon Street to the site; however all of the curb cuts are blocked with guardrails.



Map 2: Congress Street Historic District, in orange, which stretches from Bramhall Street (at Deering Avenue) to Franklin Street.

The Joe's Smoke Shop building is considered noncontributing to the Congress Street Historic District and can therefore be demolished to make way for the redevelopment project.

Historic photographs of the subject parcels generally show residential and business development of the type characteristic of Congress Street today. A church, a lunch room, and general store occupied the proposed site at the time of the 1924 tax records.



Figures 2 & 3: 1924 tax photos showing 665 Congress Street and 667 Congress Street both on the lot now zoned B-3 in the front portion.

The St. Stephen's Church was razed in 1965 and the property has been used as a surface parking since then. Map 4, below, is an aerial of the proposed site from November 22, 1969. The aerial shows the extent of surface parking lot with a building at front corner of the site (as it is currently).



Map 4: November 22, 1969 Aerial of the Proposed Site as a surface parking lot.

IV. PROPOSED DEVELOPMENT

The applicant is requesting to change the R6 portion of the property to the B3 zone, which would then designate the entire property under one zone classification. The B3 zone runs the length of Congress Street from State Street to Franklin Arterial. The B-3 zone is approximately 100 feet deep on the Vernon Place side and is approximately 150 feet on the Avon Street side of proposed site. The depth of the B-3 zone is 280 feet on the adjoining property to the east (see map amendment on page 1). The applicant is seeking to develop approximately 132 residential units on the site, thus the B-3 zone is requested in order to achieve the overall density for the project. The density limits and height limitation in the R6 zone

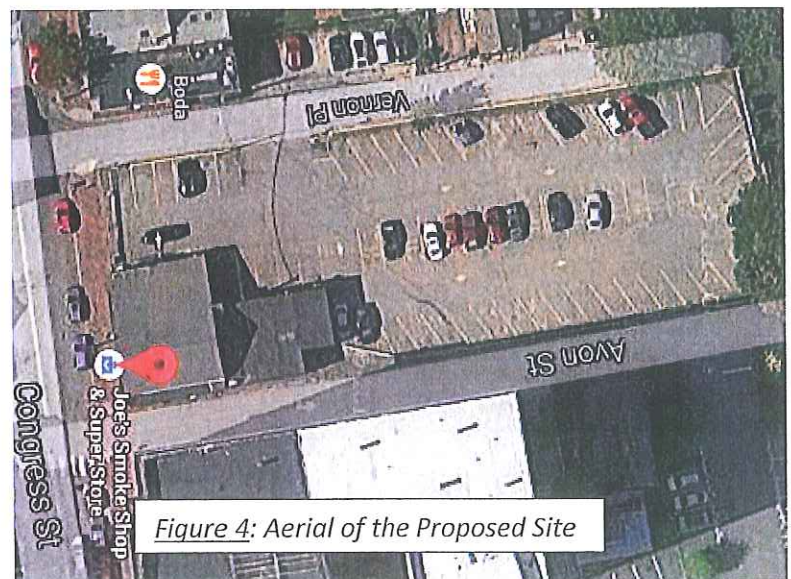


Figure 4: Aerial of the Proposed Site

constrain the redevelopment of this site. The applicant is seeking to amend the zoning map to allow for an integrated development of a seven- to eight- story multifamily apartment building with Joe's Super Variety occupying the front portion (Congress Street) of the first floor. The basement and first level will house the parking spaces (59 on the basement level and 49 spaces on first level, 108 in total) for the building uses. The remaining floors would be the rental apartments. The site would be accessed via two entrances: one off of Avon Street and one off of Vernon Place. Parking, access and other aspects are conceptual at this stage.

The parcel currently contains a surface parking lot with spaces within 35' of adjacent streets. Surface parking, whether existing or proposed, may not be located within 35' of the street for redevelopment of a site. In this case, the 35 feet would apply to Vernon Place and Avon Street. These spaces, as proposed, are considered structured parking, in which case they are allowed to be within 35 feet of the street line.



The proposed amendment also includes modifications to the city's Downtown Height Overlay map. The maximum building height in the B3 zone is regulated by the Downtown Height Overlay Map, which establishes height restrictions ranging from 45 feet to 210 feet across the B3 zone. The height overlay zone sets an 85 foot height limit for the area in the existing B3 zone bounded by Congress and Avon Streets, and Vernon Place.

The applicant proposed a B3 height amendment to 85'. The Planning Board is recommending the rear of the property height be limited to 45' for a depth of 40 feet from the rear lot line; since the rear portion of the property is abutting residential uses and the R6 zone. The applicant agrees with this recommendation (see Map 5). The actual setback from the rear property line to the building is approximately 45', but Board recommends the forty feet as sufficient separation and allows for some flexibility for the final building design.

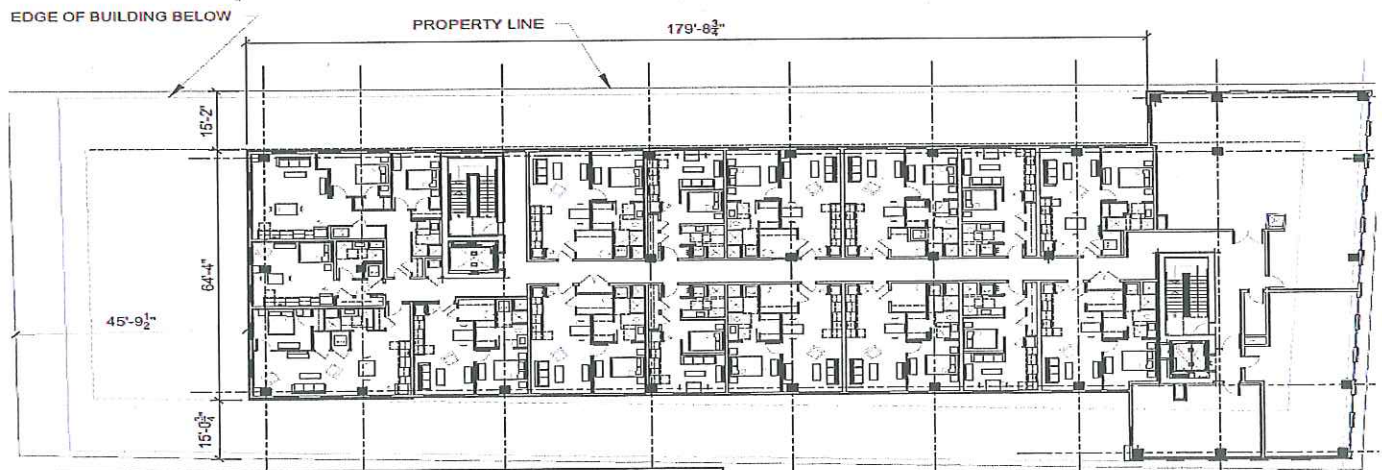
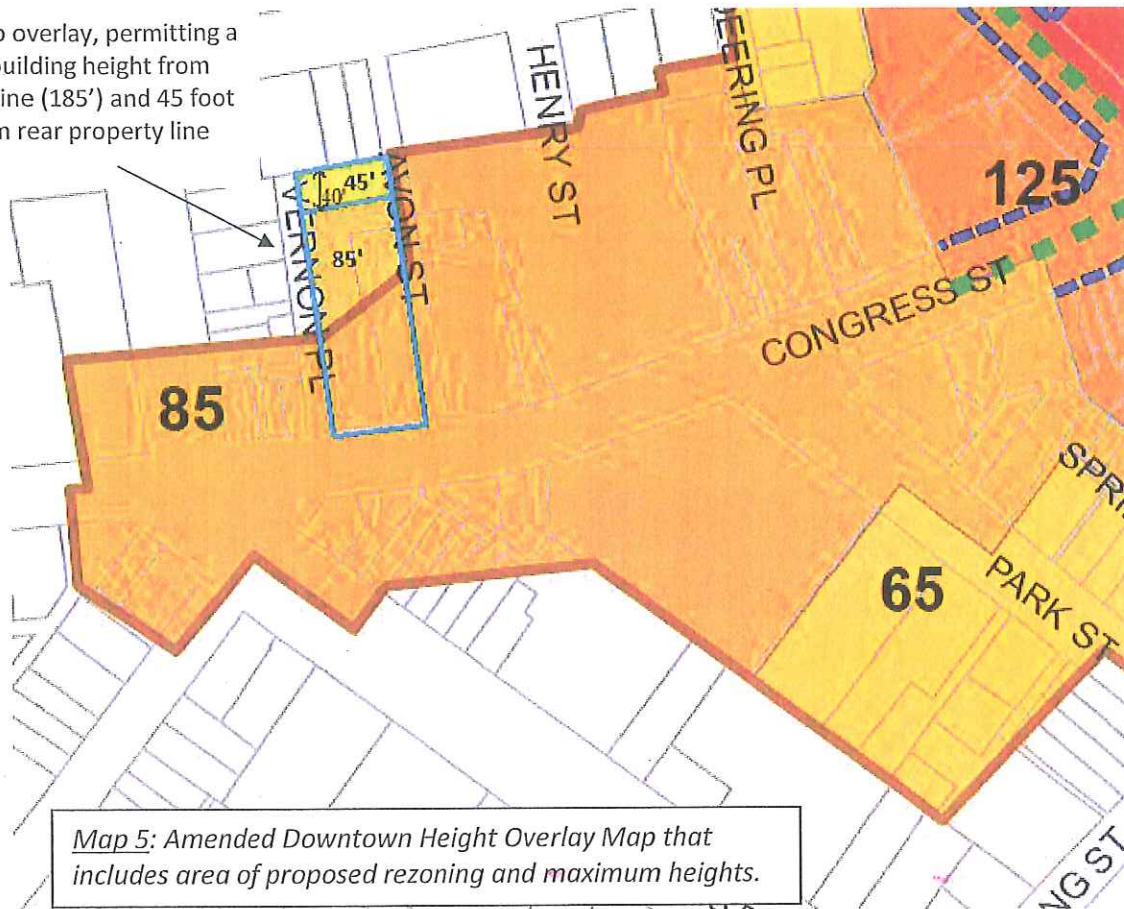


Figure 6: Rear dimensions of the property that is suggested to be 45' maximum height

Under the proposed zone change, the Downtown Height Overlay map would be amended to extend the 85 foot maximum building height to be contiguous with the proposed B3 map amendment and have the rear 40' of property be at 45' maximum building height (see Map 5).

Area to be added to overlay, permitting a maximum 85 foot building height from the front property line (185') and 45 foot building height from rear property line (40')



As noted above, the Downtown Entertainment Overlay Zone would also be extended to cover the rezoned area as part of the map amendment. The Downtown Entertainment Overlay Zone establishes a 100 foot dispersal requirement for facilities with entertainment licenses. Since the Downtown Entertainment Overlay Zone refers explicitly to and is defined by the B3 zone by ordinance, any map amendment altering the limits of the B3 zone would incorporate the Downtown Entertainment Overlay Zone.

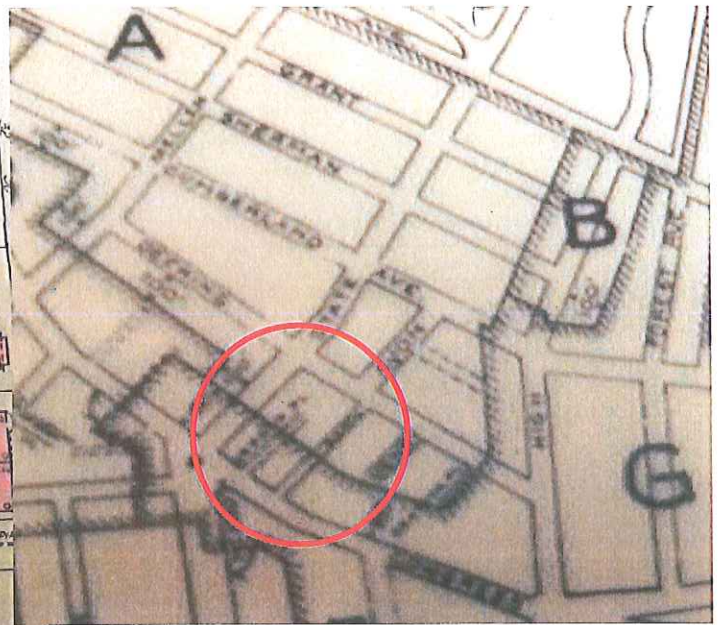
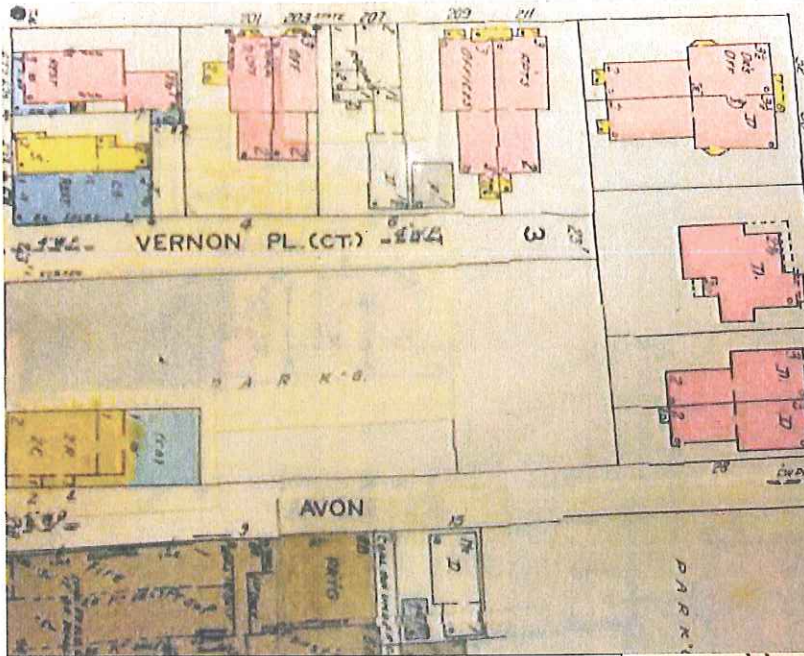
V. ZONING ANALYSIS

A. Zoning Background to the Site

The City's zoning maps from different years were researched for a zoning history of the site. Below Map 6 is a zoning map that was adopted on March 18, 1946 by the City Council. The proposed site is circled in red. The site is divided between two zones at that time, A and G zone. According to the legend on the map, the A zone is Apartment House and the G zone is General Business.

The Sanborn Insurance Map was published in 1954 with the latest amendment in June, 1975. The site was amended at some point, which shows a change from having buildings on the site (church and two residential buildings) to surface parking.

The Zoning Map of Portland Mainland was adopted by the Portland City Council in March, 1958. The map shows this proposed site, circled in red, to be divided into two zones, R6 and B3. The Downtown Height Overlay Map was overlaid on the B3 zone and was adopted on March 11, 2001.

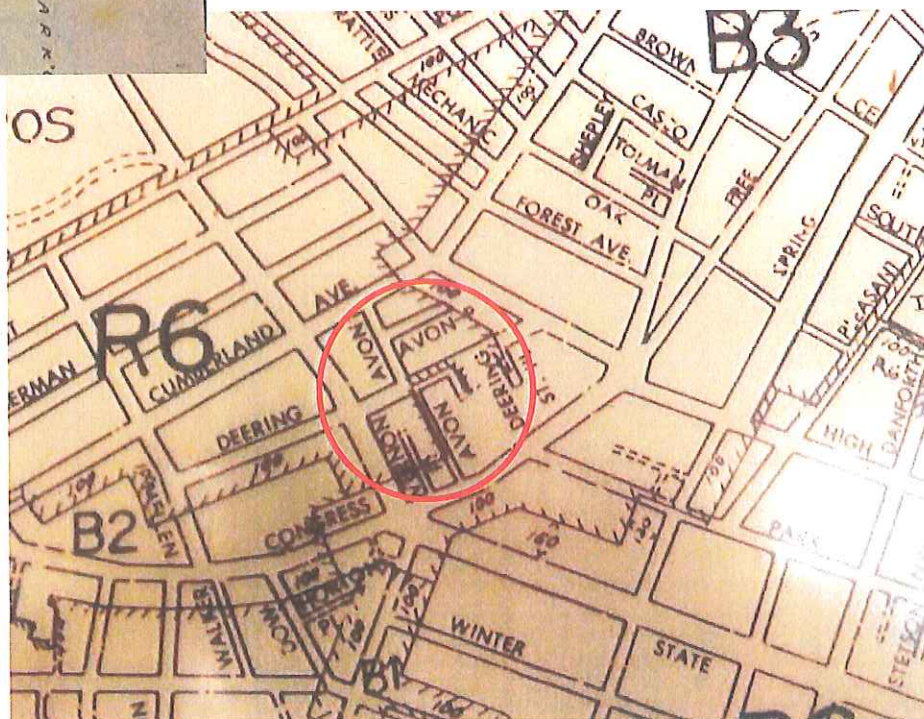


Map 6, 7 and 8: Zoning Map Adopted by Portland City Council in March 18, 1946 (above right); Sanborn Insurance Map (above left) and Zoning Map Adopted by Portland City Council in March 1958, revised February 1990 (right).

B. Current Zoning

The property is located in the R6 and B3 zones. Section 14-51 Extension of zone lines allows a less restrictive zone to extend no more than thirty (30) feet into a restrictive zone, below is the specific language of the section:

Where a zone boundary line divides a lot in single or joint ownership of record at the time such line is established, the provisions of this article for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has at least twenty (20) feet of street frontage in the less restricted zone when taken together with adjacent premises which are under the same or equivalent ownership or control. If such boundary line divides a business or industrial zone from a residence zone, no frontage on a street other than the principal business street in the less restricted zone may be taken into consideration in connection with the right herein granted. This section shall not apply to differing dimensional requirements, including height, within a zoning district.



The provision allows for the extension of a use, but not an extension of the dimensional standards. Thus, the section is not practical in this situation, since the R-6 zone portion of the lot is more than thirty feet in depth and a portion of the proposed building would extend into the R6 zone. The zone line extension does not allow an increase in the maximum building height. Therefore, this ordinance provision does not resolve the issue of divided zone lines for the proposed redevelopment.

Zoning Purposes

The current R6 zoning is designed to promote neighborhood-scale housing and compatible retail. The purpose of the R6 zone, which is found in the East and West Ends of the city, is to “*set aside areas...for housing characterized primarily by multi-family dwellings at a high density*” 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*” (Section 14-135). It should be noted that the R6 zone does encourages high-density housing on the peninsula.

The stated purpose of the B3 zone, or the proposed zoning designation, is clearly intends to increase housing opportunities and encourage mixed-use activities. However, the B3 zone also has some purposes which are distinct from the R6 – to

“*enhance and promote the orderly expansion of retail and service businesses downtown,*” to “*provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development activity,*” and “*reinforce the role of the downtown as a meeting place for community residents and visitors alike...*” (Section 14-203).

Table 1 compares the purposes of the two zones as written in the zoning ordinance.

Table 1: Purposes of the R6 and B3 Zones

	R6 Residential	B3 Downtown Business
Purpose	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. 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.	To: 1. Maintain and enhance the role of the downtown as the business and commercial center of the region; 2. Enhance and promote the orderly expansion of retail and service businesses downtown, satisfying the related needs of the city’s resident, working and visitor populations; 3. Encourage increased housing opportunity downtown for a diverse residential population; 4. Enhance the pedestrian environment through the encouragement of intensive mixed-use activities, through the enhancement and maintenance of public and private open space, and through the enlivenment and increased attractiveness of the street environment; 5. Encourage excellence in urban design; 6. Preserve and capitalize on the unique character and historic fabric of the downtown through the encouragement of reuse of significant existing structures; 7. Provide opportunity for an enhanced presence and integration of the arts and cultural activities downtown; 8. Reinforce the role of the downtown as a meeting place for community residents and visitors alike from all walks of life and all socio-economic groups; 9. Provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development opportunity, and enhance and protect the pedestrian environment; and 10. Provide for the relocation of residents who are displaced by development.

Permitted Uses

In accordance with their distinct purposes, the R6 generally permits less intensive uses than the B3 zone. The R6 limits development almost exclusively to residential uses, with an exception for low-intensity, compatible uses such as cemeteries, parks, bed and breakfasts, and lodging houses. Some slightly more intense uses, including schools, extended care facilities, places of assembly, hospitals, professional offices, and off-street parking for uses

permitted in the R6 zone, are allowed under a conditional use permit. The zone does not permit businesses uses.

As the purposes indicate, the B3 zone permits the most intensive range of uses of the two zones being considered here. The B3 therefore allows residential development similar to that of the R6 zone, but also allows offices, retail establishments, restaurants, drinking establishments, repair services, theaters, hotels, and parking garages by right. Museums, schools, clinics, places of assembly, and county and municipal offices are also permitted. Under conditional uses, the B3 permits light industrial, drive-up banking, emergency shelters, and surface parking.

Table 2: Permitted Uses in the R6 and B3 Zones

	R6 Residential	B3 Downtown Business
Residential	Single- and two-family dwellings Multi-family dwellings Handicapped family units Single-family, single- and multiple-component manufactured housing	Attached single-family, two-family and multi-family dwellings Handicapped family units Lodging houses Combined living/working spaces
Business		General and business offices Professional offices Personal services Offices of building tradesmen Retail establishments, excluding gasoline sales, wholesale and bulk purchase construction supply sales Restaurants, excluding drive-through or drive-in restaurants Drinking establishments Billiard parlors Repair services, excluding motor vehicle repair services Communication studios or broadcast and receiving facilities Health clubs and gymnasiums Theaters and performance halls Convention facilities Hotels Business services Parking garages Galleries Registered medical marijuana dispensaries
Institutional		Public or private schools Clinics Places of assembly Nursery schools, kindergartens, and day care facilities Museums College, university, trade school Governmental offices
Other	Lodging houses Conversion of a structure into a bed and breakfast with four rooms Hostels with less than 10 guests Wind energy systems Accessory uses Cemeteries Parks, and recreation spaces Home occupation Municipal uses Special needs independent living units	Bed and breakfasts Hostels Wind energy systems County and municipal uses Studios for artists and craftspeople Printing, publishing and related manufacture of cardboard or paper boxes

R6 Residential**B3 Downtown Business**

Conditional	Residential	Utility substations
	Sheltered care group homes	Drive-up banking services
	Conversion of a structure into a bed and breakfast with 5+ rooms	Light industrial uses
	Institutional	Emergency shelters
	Elementary, middle, and secondary schools	Surface parking
	Long-term and extended care facilities	Temporary wind anemometer towers
	Intermediate care facilities	
	Places of assembly	
	Hospitals	
	College, university, or trade school	
	Other	
	Utility substations	
	Professional offices	
	Chancellery	
	Nursery school and kindergartens	
	Off-street parking for uses permitted in the R6 zone	
	Day care facilities	
	Hostels with no more than 20 guests	
	Wind energy systems ¹	
	Temporary wind anemometer towers	

Dimensional Requirements and Form

Lastly, the two zones differ significantly in terms of the form of building that is promoted through dimensional requirements, again with the B3 encouraging denser, more urban development than the R6 zone. Thus, the R6 provides certain density controls – minimum lot size, minimum area per dwelling unit, maximum lot coverages, and minimum open space ratios – that limit the build-out of any given parcel. The R6 zone also has setback requirements of 10-20 feet, which guarantees that buildings will be separated both from each other and the street. The B3 comparatively does not include minimum lot sizes or minimum areas per dwelling unit, and does not require setbacks.

The R6 zone has a maximum building height of 45 feet. The proposed R-6 amendments recommended by the Planning Board were approved by the City Council on May 4th. The proposed revisions increase the density of the R-6 zone, but the maximum building height remains unchanged at 45 feet. As noted above, the maximum building height in the B3 zone is regulated by the Downtown Height Overlay Map. Under the proposed amendment, the Height Overlay would be extended to cover the rezoned area, with a maximum building height of 85 feet for most of the site and with a maximum building height of 45 feet for 40' at the rear of the property, see Map 5 above.

In terms of design and building form, the site is located within the Congress Street Historic District and would be subject to review under the Historic Preservation Ordinance. If the site is rezoned to B3, the development would require a certificate of appropriateness from the Historic Preservation Board and would be exempt from the B-3 Design Guidelines except for the following provisions (Section 14-526 (d) 5:

Developments affecting designated landmarks or within designated historic districts or historic landscape districts: Any proposed development required to obtain a certificate of appropriateness under article IX (historic preservation) of the land use code shall be exempt from the following design standards, as

described in the Design Manual:

- (i) Section (b) of the Design Manual (development in B-3 zone), except for (b) (1) e.2. (increasing setback beyond street build-to line), (b) (1)f. (shadow impact on open space), (b)(1)h. (wind impacts), and (b)(1)g. (setbacks from existing structures);

Table 3: Dimensional Requirements in the R6 and B3 Zones

		Proposed R6	B3
Minimum lot size		2000 SF	None
Minimum area per DU		725 SF	
Minimum street frontage		20 ft.	15 ft.
Minimum lot width		20 ft.	None
Min./Max. front yard	Principal	5 ft. or no more than average depths of adjacent front yards.	5 ft. max.
	Accessory		
Min. rear yard	Principal	10 ft.	None
	Accessory	If <144 SF footprint, 5ft	
Min. side yard	Principal	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.	None
	Accessory	If > 100 SF footprint, 20 ft.	
	On side streets	None	
Max. lot coverage		60%	100%
Open space ratio		20%	
Max./Min. building height	Principal	45 ft. max	35 ft. min. if within 50 ft. of street; 85 ft. max.
	Accessory	18 ft. max	

VI. PLANNING BOARD ANALYSIS

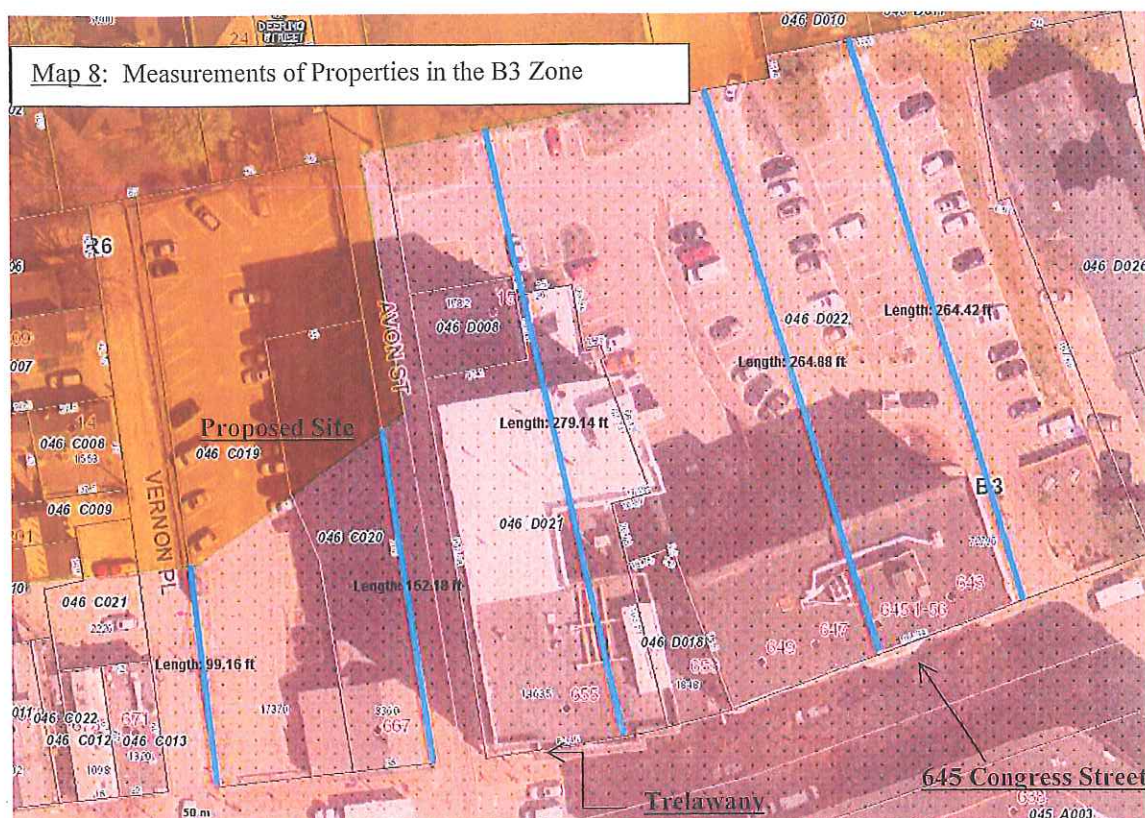
A. Zoning Analysis

As stated previously, the applicant is proposing a development that will consist of approximately one hundred and thirty-two (132) rental units. The site area is approximately 25,740 sq. ft. Congress Street is a central arterial located on the peninsula and is within walking distance of downtown or other work places and shopping.

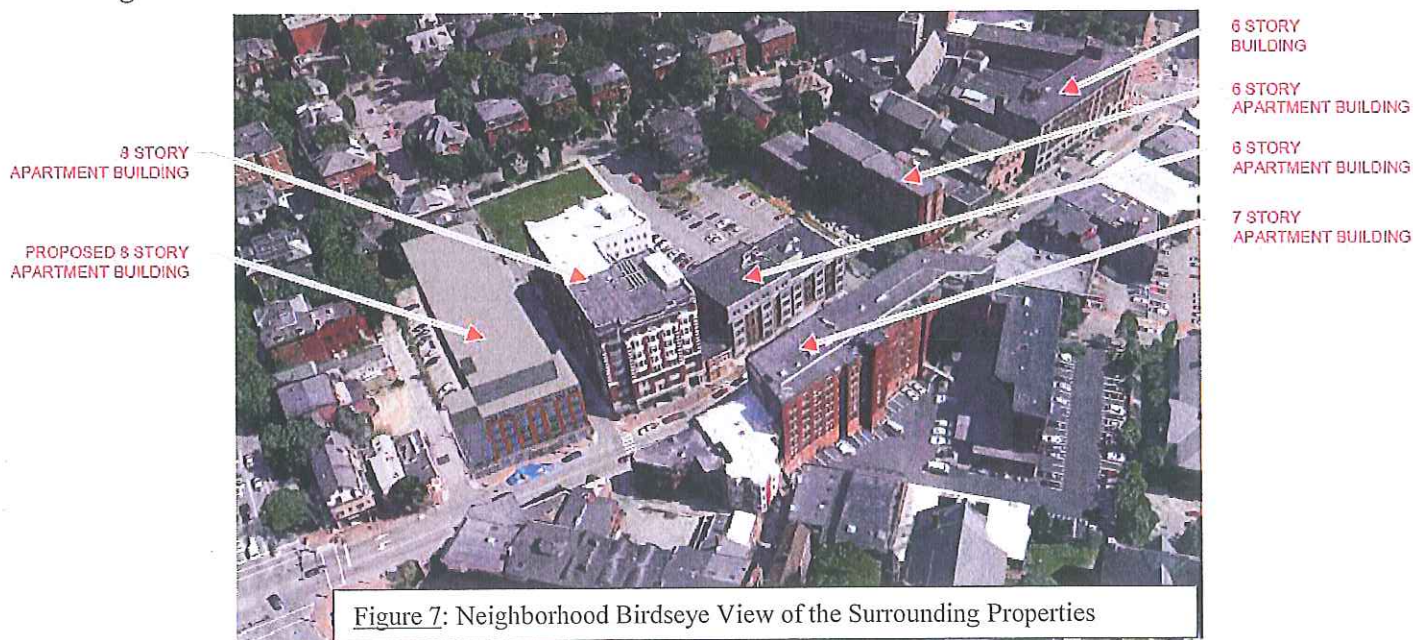
The Planning Board determined that this site, currently a relatively large parcel in the R6 and B3 zones with a business use, is a good candidate for the B3 zone (refer to Comprehensive Plan review below). The B3 zone stretches along Congress Street from State Street to Franklin Arterial. The larger scale and density works reasonably well here, on a street that has significant variety of building types and scale. The buildings to the east of this property within

the B-3 zones are the Trelawney Building at 655 Congress Street, a single family house, and an apartment building at 645 Congress Street. The owners of the small single family house across Avon Street from the proposed project initially expressed concerns about the impact of the larger scale development allowed by the rezoning. The owners have since withdrawn their opposition in light of the applicant's arrangement to purchase their property. As for the property at 645 Congress Street, the B-3 zone is approximately 265 feet deep into the site; the rear portion of the site is in the R6 zone. While the depth of the B-3 zone is 280 feet on the adjoining property to the east (see map amendment on page 1), it appears the proposed site may have been the transition property between the B-3 zone and the adjoining Residential R-6 zone located to the north and the west. As part of the proposal for the rezone, the Planning Board has recommended the rear portion of the lot, for a depth of 40 feet from the property line, have a maximum building height of 45 feet. The properties across Vernon Place are

all multifamily homes, except along Congress Street (portion that is in the B3 zone). Below is aerial map that shows the depth of the B3 zone line of the proposed site and the properties to the east.



Across the street from the proposed property is the George S. Hunt Block and Lafayette Building. The applicant has submitted a Neighborhood Birdseye View (below) that shows these buildings as well as the stories of each building.



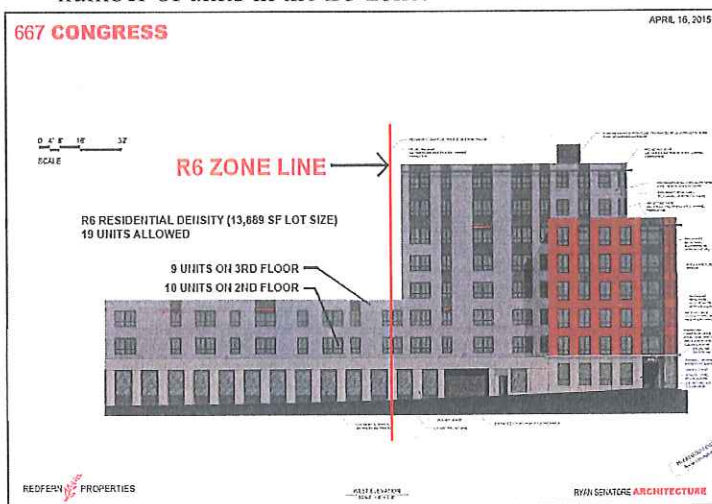
The proposed zone change will provide increased density in an area that is central to services such as businesses, institutions, employers and public transportation. It will also provide compact in-city living for renters that represent a variety of income levels.

Since there is a density cap and height limitation in the R6 zone, the B3 zone offers a better option for the development of this project. The Comprehensive Plan encourages development of infill projects on the peninsula, with less required parking spaces to promote walking to work and shopping or to utilize public transportation.

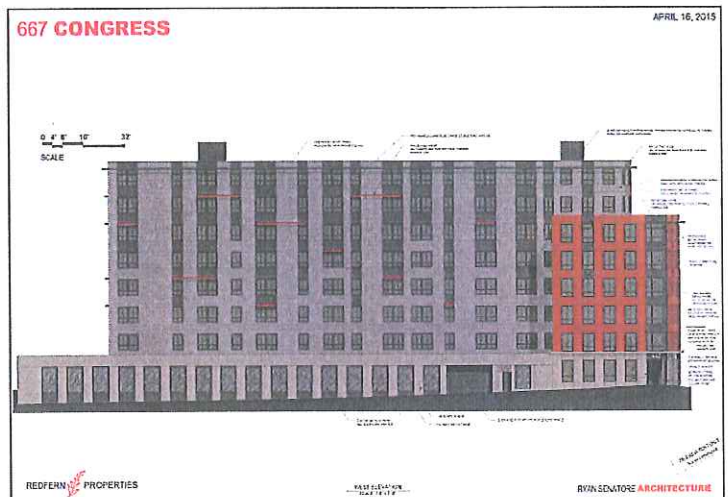
C. Density Considerations

The proposed number of dwelling units is approximately 132 units. R-6 text amendments were recently approved by the City Council on May 4th. Thus, the density under the new R6 zone is 725 square feet of land area per unit. Under this new density requirement, the applicant had calculated nineteen (19) units that would be allowable. Below is a rendering of how that proposed building would look like if the site was built out in the two zones.

Since there is no density limitation in the B3 zone, it is difficult to analyze the maximum numbers of units that might be possible under the zone. The applicant has also submitted a rendering of the building with the proposed number of units in the B3 zone.



B3/R6 ZONING ELEVATION



B3 ZONING ELEVATION

VII. COMPREHENSIVE PLAN ANALYSIS

Goals and policies from the Comprehensive Plan which are relevant to the proposed map amendment have been included below:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

Policies

- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.
- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.

- Evaluate and update current zoning, as needed, to encourage higher density multi-family developments and mixed use projects that incorporate housing, particularly along major public transportation routes, near services areas, and in redevelopment or infill areas, where appropriate.

Portland Housing Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity.

Policies

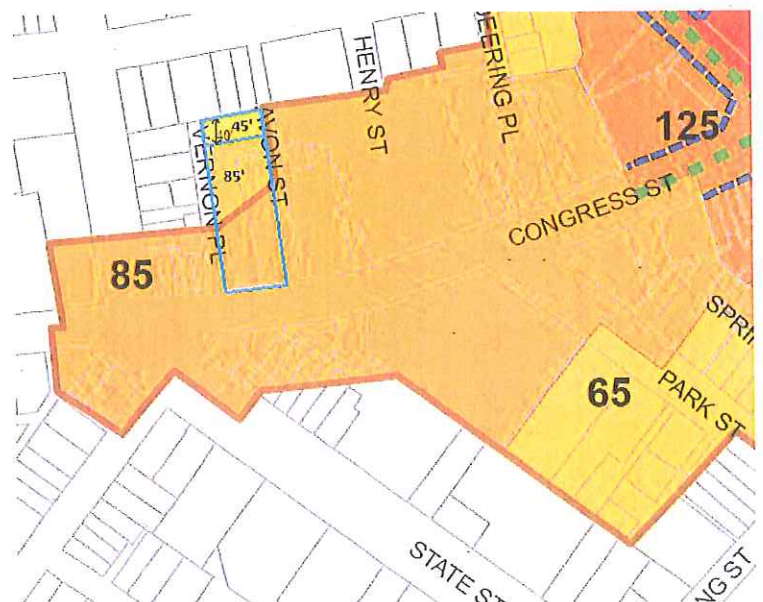
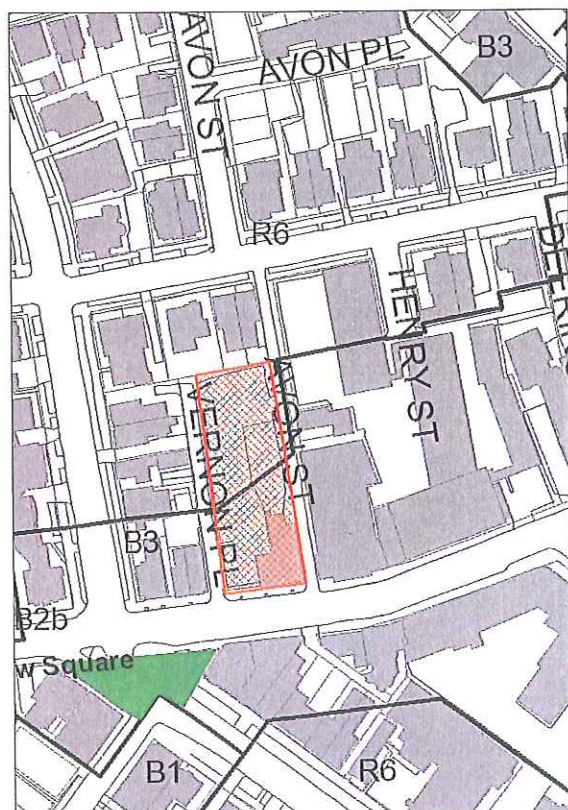
- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.
- Ensure the integrity and economic value of Portland's neighborhoods.

VIII. PLANNING BOARD RECOMMENDATION

On May 12, 2015, the Planning Board voted unanimously (4-0 O'Brien, Hall and Morrisette absent) to recommend the following:

Based on the material provided in this Planning Report, public testimony, a review of applicable policies, and other information, the Planning Board finds that the proposed map amendment for the property at 667 Congress Street to change the zoning from Residential (R-6) to Downtown Business (B-3) and the concurrent amendment to modify the Downtown Height Overlay Map to extend the 85 foot height limit into the rezoned area with a 45 foot height limit for 40 feet at the rear of the property line, as shown in the maps below, are consistent with the Comprehensive Plan and does recommend adoption of the proposed amendments to the City Council.

The Planning Board supported the reduction in the building height to 45 feet for the rear 40 foot depth of the lot as a good to assure neighborhood compatibility with the adjoining residential and historic areas. The Board also found the site to be consistent with the comprehensive plan goals for urban infill projects and greater residential density.



Downtown Height Overlay Map

ATTACHMENTS:

Memo Attachments

1. Downtown Height Overlay Map

Public Comments

- PC1. a. Dianna Rust's comments dated April 9, 2015
- b. Dianna Rust's comments dated
- PC2. Darrell Williams' comments dated April 30, 2015
- PC3. Mark Lockman's comments dated May 5, 2015

Applicant's Submittal

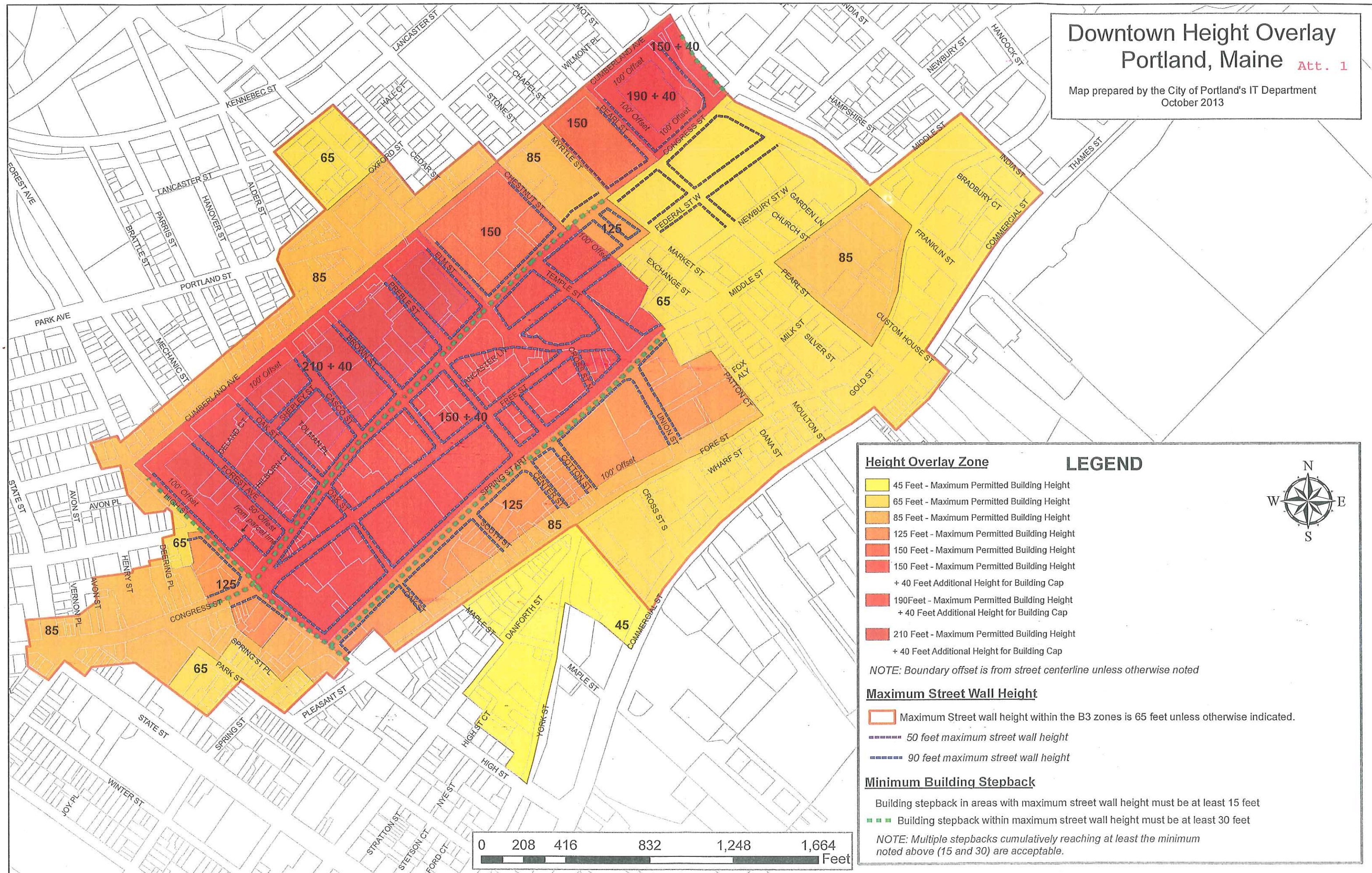
- A. Cover Letter dated March 10, 2015
- B. Application
- C. Deed
- D. Neighborhood Meeting Minutes

Plans

- P1. Neighborhood Birdseye View
- P2. First Floor of Proposed Development
- P3. Congress Street RenderingD
- P4. Proposed Zone Map Change
- P5. Basement Level Floor Plan
- P6. First Floor Plan
- P7. Second Floor Plan
- P8. Third Floor Plan
- P9. Seventh Floor Plan
- P10. Roof Level
- P11. South Elevation Rendering (Congress Street)
- P12. West Elevation Rendering (Vernon Place)
- P13. North Elevation Rendering (from Deering Street)
- P14. East Elevation Rendering (Avon Street)
- P15. Garage Section-1
- P16. Garage Section-2
- P17. Garage Section-3
- P18. Floor Plans with the dimensions to the property line
- P19. Rendering of the Site under R6 Density
- P20. 667 Congress Street Model

Downtown Height Overlay Portland, Maine Att. 1

Map prepared by the City of Portland's IT Department
October 2013



Dianna Rust
15 Avon Street
Portland, ME 04101
207 956 7633
diannajrust@gmail.com

Stuart O'Brien
Chairman, Planning Board
City of Portland
389 Congress Street
Portland, ME 04101

April 9, 2015

cc: David Marshall, City Councilor, District 2
by email
cc: Jonathan Culley, Redfern Bayside, Developer
by email

Zoning Map Amendment Application
665-667 Congress Street

Dear Mr O'Brien

As the owner of the one and only single family residence on upper Avon Street, directly opposite the above proposed development, I am setting out below the points I wish to raise in opposition to the granting of the variance to change the B6 half of the parking lot to B3.

1. My partner, Walter Ungerer, and I moved to Portland, to 15 Avon Street, at the end of August 2014. We are both artists. We have been told that the house was built in 1865, by the then City Weigher (for hay!)
2. When we moved we could only assume that the R6 section of the parking lot would stay that way, and that any development would be controlled by that zoning.
3. We have no objection to *some* development. The area could certainly use some improvement.

4. As we are both artists, this house, with a decently sized basement for a Victorian house, which we have just thoroughly (and at some considerable expense) waterproofed, provides the spaces we need as a home and for our work.

5. One of our biggest issues with this proposed development is loss of light:

a) We would be cast into deep shade, all day long, especially in the winter. There's not a lot of light, but the light we do get is attractive and pleasing, and it was another factor in choosing the house. Because the Trelawny Building is immediately to the south of us, the light from the west is our main light. In the winter the west light, which shines across the parking lot, is the only light. Apart from direct light on the house, at the moment we can see sunlight looking out to the front. Our little patio faces west, and with no sunlight it would become almost pointless to try and use it.

b) I think it goes without saying how important sunlight is. It can have a strong psychological effect, and a lack of it can contribute to depression. As well as uplifting to see, sunlight adds warmth to a room when it comes in.

c) The only mention I could find about light in the Portland building codes is to not create shade on certain open spaces. In the UK, where I am from, great importance has long been placed on a right to natural sunlight and there have been some interesting cases of homeowners holding up developments because of a threat to their light.

d) About our house people have said, "I love the light!" Lack of light can reduce the value of a house and its resale possibilities. This is of great concern to us.

e) Would you allow someone to come and paint grey on all your windows?

6. After the light issue, we are very apprehensive about the mass and density of the proposed building that would be directly opposite us. Obviously, we don't know the site plan details yet, but I believe the B3 would allow the building line to be relatively close to the street. It would seem there wouldn't even be space for some softening effect of any landscaping.

7. Obviously, we have a very personal view of this development. In fact, we are devastated by the idea. The very thought of this building looming up in front of us feels like robbery and a violation of our space. Avon Street is a small one-way street. Not only will we lose light, but from the proposed plan it looks as if we will have 2 parking entrances very close to our house,

opposite us, with the possibility of disturbance at any time of the day or night (right now parking ends when Boda closes, and it isn't available again until 6.00 am). And with 132 apartments how many cars will there be?

8. Where will trash be picked up, by whom, and at what time? Where will snow go?

9. It seems as if the developer and the city have already assumed this request for a variance will just sail through, without any problems. Jeff Levine (city's director of Planning and Urban Development) was quoted in the Portland Press Herald on March 9, 2015, as saying it's 'exciting' to have a large proposal on a transit corridor.... He said Culley's plan appears to comply with the city's zoning rules, and characterized his request for a zoning map amendment as "nothing drastic". Well, it is drastic to us. *This is our home.*

10. It is just this passing of a variance that would enable the developers to build so big. It will be a massive building between two small streets, one of which is a dead-end. Just because there is already an 8 story building one side of Avon Street, does it have to follow there will be another on the other side? And where will it end. If this variance is allowed, it will surely set a precedence to be used by other developers as an example to point to, to build more giant properties. This would become overwhelming to Longfellow Square, to the west of Congress Street, and on. At the West End Neighborhood meeting I attended Wednesday night, Jonathan Culley said he is working with the city on the street issue. Are there planned changes to the street that we don't know about?

11. We came to Portland because we saw it as a city with a high quality of life, interesting neighborhoods and well preserved architecture. I appreciate the city's wish and need for more housing. However, I have to wholeheartedly agree with an article written by Michael Mertaugh for Keep Portland Livable. He writes how he and his wife are "disappointed to see that Portland's current strategy for promoting growth and development appears to give priority to projects that emphasize size, quantum increases in density... ". And, further, "The city's enthusiasm for higher residential density appears to be partly motivated by an expectation that higher density would generate new tax revenues that could be used to reduce Portland's tax burden. The experience of many other cities suggests that this is likely to be a vain hope. The additional tax revenues from higher residential density are likely to be fully offset by additional costs for public services."

As I couldn't say it better, again, I quote (with his kind permission) Michael Mertaugh, "Capitalizing on Portland's strengths would require a different approach to Portland's development. Rather than a reactive approach that responds to specific proposals by developers - and often involves concessions

such as zoning variances and public subsidies – it would require a pro-active and deliberate approach designed to build on Portland's strengths and attract the type of development that we want for our city."

12 If the current zones are adhered to, or the current B3 section is slightly extended to make a suitable shape, couldn't apartments still be built there? We've been told the proposed building will contain a combination of studios, and one-bedroom units, with a small number of two-bedroom units. However, even a two-bedroom unit is not really family oriented. I understood that the city wanted to see more middle-income *family* housing. Why couldn't the R6 area contain a creative format for some family residences? Of course, this is what *we* would like to see! At the neighborhood meeting Wednesday night the question was raised why R6 was there at all. "To protect the neighborhood!" was one person's apt response. This is exactly what we had assumed.

13. Since buying our house, which had already had a somewhat cosmetic renovation, we have been making many more improvements over and above those done by the sellers. Not only have we waterproofed the basement; we have also entered into a contract with a thorough repair of the roof with slate and copper. We are expected to comply with the Historic District guidelines and now I feel, why should we bother. All this work is expensive and then our house would be 'smothered'. There are beautiful old houses on Deering Street, over which this proposed building, at 8 stories, would loom. The building couldn't help but be very visible.

14. I fear that our 1865 house will be lost in this planned development and the impact on us will be totally ignored. On the issue of Historic Preservation, from the City's Comprehensive Plan, some pertinent points on Goals and Policies stand out (the italics are mine):

Preserve and enhance the quality and vitality of neighborhoods within and adjacent to the Downtown

Protect and enhance the attractiveness of the city to its homebuyers, homeowners, residents, tourists, visitors, businesses, and shoppers

Increase home ownership opportunities for all type of households and all income levels

The existing housing stock will be enhanced and preserved

Maintain, rehabilitate, and restore the existing housing stock as a safe and important physical, economic and architectural resource for the community

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.

Encourage *innovative* new housing development, which is designed to be *compatible* with the scale, character, and traditional development patterns of each individual residential neighborhood.

15. From A Community Vision for Portland, also from the Comprehensive Plan:

Listen to, embrace, empower and support our diverse citizenry

Portland retains a small town feel with a built environment that is scaled for people

Portland enjoys a personable and congenial atmosphere that makes it a welcoming place to work, live and visit

Portland is a city of neighborhoods

Maintains unifying features, such as brick buildings and sidewalks, and established and traditional neighborhoods with narrow and interconnected streets

16. Will the Planning Board observe these examples above, or will they now find justification to ignore them?

17. We were pleased to be able to find an interesting residence in the Downtown area. Now, it seems, we will be paying a price for that. We feel we will be out of place and even displaced.

18. If this proposal goes through who will compensate us for our loss of amenities and loss of value of our property?

We object to the allowing of this request for a variance and to the mass and density of the building that such a change would allow.

Sincerely

Dianna Rust

From: "Darrell Williams" <darrell@eighteenventures.com>
To: <shukriaw@portlandmaine.gov>
Date: 4/30/2015 5:04 PM
Subject: Comments Regarding Proposed 667 Congress Street Development

Good Afternoon! Ms. Wiar, I am writing in support of the proposed apartment development/rezoning at 667 Congress Street. Allow me to briefly state that the proposed development will increase diversity and economic development. I am a long time resident of Portland and 4 1/2 year resident of 645 Congress Street. And, I strongly believe the proposed development will have a positive impact in our neighborhood. Moreover, the owners of Joe's Smoke Shop & Super Store are committed business owners who take pride in serving our community. I expect that they will continue to play this same role as development partners of this project. I truly hope you and your colleagues will look favorably on the proposed rezoning and grant the partnership the right to move forward. Sincerely, Darrell Keith Williams

Darrell Williams

Eighteen Ventures

(207)347-1214

PO Box 5035

Portland, ME 04101

www.Eighteenventures.com

Shukria Wiar,

I am writing to you in support of the proposed project by the Discatio family on their property at 667 Congress Street.

As a resident of 655 Congress Street and regular patron of Joe's Super Variety Store since 2007 I can personally attest that Michael and David are fair, honest and hardworking business people with strong ties to the community who run a great business that is vital to the neighborhood.

This project will be of great benefit to the neighborhood and the city, creating an improved variety store as well as housing and off street parking that will attract young professionals to the already thriving Arts District.

Maine and the City of Portland cannot afford to turn down this economic boon. A project of this magnitude will have an immediate positive economic impact in terms of construction jobs, not to mention additional benefits to local businesses in the short run, namely hotels and eateries catering to construction workers.

Furthermore, as Portland strives to transform into a vibrant metropolitan destination, what better way to aid this transformation than to create housing with built in off street parking that will bring successful, well educated people to live, work, and spend near downtown?

As a resident, student, teacher and coach in this great city for the better part of the last decade I implore you to swiftly move forward with this project. The economic and social benefits are too important to pass up.

Sincerely,

Mark Lockman



Att. A

P.O. Box 8816
Portland, ME 04104
Office: 207-776-9715
Fax: 207-221-2822
www.redfernproperties.com

March 10, 2015

Ms. Barbara Barhydt
City of Portland, Planning Division
389 Congress Street, 4th Floor
Portland, ME 04101

Dear Barbara:

On behalf of MSD Properties LLC, please find attached a Zoning Map Amendment Application related to 665-667 Congress Street. Redfern Properties is working in partnership with MSD Properties LLC and Joe's Super Variety to redevelop the property with a multi-family apartment building, consisting of 7-8 stories and roughly 130 apartments. Joe's Super Variety will occupy the ground floor retail space.

Per the attached, Zoning Map, the property currently is partially in the B-3 Zone and partially in the R-6 Zone. We are requesting a Map Amendment that would designate the entire property B-3. We believe that this is a very logical change that would result in a more sensible Zoning Map. The proposed project is very consistent with the City's Comprehensive Plan and would fill the current need for rental apartment housing.

Please find attached the following in support of this application:

1. Zoning Map Amendment Application Form
2. Copy of Property Deed
3. Vicinity Map Showing Current Zoning
4. Aerial Photo of City Block showing current building types
5. Preliminary Proposed Site Plan
6. Preliminary Proposed Building Rendering

We are committed to creating a progressive and noteworthy project that will enhance this important urban neighborhood. Please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Culley".

Jonathan Culley
Redfern Properties LLC



Zoning Map/Text Amendment Application Portland, Maine

Planning and Urban Development Department
Planning Division and Planning Board

Portland's Planning and Urban Development Department coordinates the development review process for requests for zoning map amendments, zoning text amendments and contract or conditional rezoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. The **Application Process for a Zone Change** is summarized below under Section I and the associated costs for reviews are found under Section II, **Development Review Fees, Public Notices and Guarantees**, and are listed on the fee structure sheet.

I. APPLICATION SUBMITTAL

Pre-application meeting

Prior to submitting a zoning amendment application, the Planning Division recommends that the applicant or the designated representative schedule a pre-application meeting to discuss the review process and applicable standards for a proposal. Please contact Barbara Barhydt, Development Review Services Manager at 874-8699 to schedule a meeting.

Zoning Amendment Application

All plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.

- Submit one (1) complete paper set of the zoning amendment application with a concept plan and a written narrative. 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. Applications may be submitted between 8 a.m. and 4:30 p.m. Monday through Friday at the Planning Division on the 4th floor of City Hall, 389 Congress Street, Portland.
- All applications are processed in the order in which they are received.
- In order for the Planning Division's Administrative Staff to accept and log-in an application, the application form must be complete, it shall be signed by the applicant's or the applicant's designated representative, and all applicable fees paid at the time of submittal.
- The Land Use Code is available on the City's website at www.portlandmaine.gov.
- If the application is found to be incomplete, the applicant will be informed in writing of the required plans and materials.

II. DEVELOPMENT REVIEW FEES, PUBLIC NOTICES AND GUARANTEES

Zoning Application Fees

- Each application must be submitted with the applicable fees as listed in the fee structure on page 4. The fees cover general administrative processing costs.
- Application fees may be paid in cash or by check (addressed to the City of Portland).
- An application will not be processed without the required application fees.

Fee for City Review Services

- The City of Portland charges fees for service to cover the cost of reviews by Planning and Legal staff members. The charges will be billed at an hourly rate and will be invoiced monthly for reimbursement.
- Current billing rates: Planning services, \$40.00/ hour and Legal services: \$75.00/hour.

Fee for Third Party Review

- Portland contracts with local engineering firms to conduct engineering reviews of development proposals. The direct cost of all engineering services or third-party consultant reviews, such as the civil engineering review of stormwater management plans, traffic impact reviews and such other reviews as required under the City's Ordinances, will be included in the monthly invoices for reimbursement.

Public Notices

- Public notices must be sent to property owners within 500 for all proposals at the time an application is received. Zoning map amendments for Industrial zones require notices to be sent to property owners within 1,000 feet.
- In advance of a Planning Board workshop or public hearing, public notices for projects must be sent to property owners and are posted in a legal ad in the Portland Press Herald and on the City's web site.
- In addition, zoning map amendments, text amendments and conditional rezoning agreements require individual notices to be posted in the Portland Press Herald.
- The Planning Division mails public notices and posts notices in the newspaper. The applicant will be billed for actual or apportioned costs for advertising and sending mailed notices.
- The applicant is required to hold a neighborhood meeting under the City's regulations for zone change requests. The mailing labels must be purchased from the Planning Division for the neighborhood meeting invitation. A request for labels requires a minimum of two business days to generate the mailing labels and a charge of \$1.00 per sheet will be payable upon receipt of the labels.

Third Party Review Fees

- Engineer and Third Party Review Fees - The fees are assessed by the Consulting Engineers and Third Party Reviewers.
- Inspection Fee - This fee is 2% of the Performance Guarantee or as assessed by Planning or Public Works Engineer with \$300.00 being the minimum.

Noticing/Advertisements Planning Board/City Council Review

- Legal Advertisement: Percent of total bill
- Notices: .75 cents each
(notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council)

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8721 or 874-8719

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

PROJECT ADDRESS: 667 Congress St.

CHART/BLOCK/LOT: 46-C-19-20

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

We are seeking to change the the rear half of the parcel from R-6 to B-3. The front half of the parcel is already B-3. We are proposing to build
a 7-8 story multi-family apartment building with roughly 130 rental apartments and parking under and behind the building.

CONTACT INFORMATION:	Applicant's Contact for electronic plans Name: Jonathan Culley e-mail Address jonathan@redfernproperties.com work # 207-221-5746
Applicant – must be owner, Lessee or Buyer Name: Redfern Properties LLC on behalf of MSD Properties LLC Business Name, if applicable: MSD Properties LLC Address: P.O. Box 5055 City/State : Portland, ME Zip Code: 04101	Applicant Contact Information Work # 207-221-5746 Home# Cell # 207-776-9715 Fax# 207-221-2822 e-mail: jonathan@redfernproperties.com
Owner – (if different from Applicant) Name: MSD Properties LLC Address: P.O. Box 5055 City/State : Portland, ME Zip Code: 04101	Owner Contact Information Work # Adam Taylor, Attorney 207-828-2005 Home# Cell # Fax# 207-347-4523 e-mail: ataylor@lmfattomeys.com
Agent/ Representative Name: Jonathan Culley/Redfern Properties LLC Address: P.O. Box 8816 City/State : Portland, ME Zip Code: 04104	Agent/Representative Contact information Work # 207-221-5746 Cell # 207-776-9715 e-mail: jonathan@redfernproperties.com
Billing Information Name: Redfern Properties LLC Address: P.O. Box 8816 City/State : Portland, ME Zip Code: 04104	Billing Information Work # 207-221-5746 Cell # 207-776-9715 Fax# 207-221-2822 e-mail: jonathan@redfernproperties.com
Engineer Name: Address: TBD City/State : Zip Code:	Engineer Contact Information Work # Cell # Fax# e-mail:

Surveyor Name: Nadeau Land Surveys Address: 918 Brighton Ave. City/State : Portland, ME Zip Code: 04103	Surveyor Contact Information Work # 207-878-7870 Cell # Fax# 207-878-7871 e-mail: jim@nadeaulandsurveys.com
Architect Name: Ryan Senatore Architecture Address: 565 Congress St., Suite 304 City/State : Portland, ME Zip Code: 04101	Architect Contact Information Work # 207-650-6414 Cell # 207-650-6414 Fax# e-mail: ryan@senatorearchitecture.com
Attorney Name: Eben Adams/Pierce Atwood Address: Merrill's Wharf 254 Commercial St. City/State : Portland, ME Zip Code: 04101	Attorney Contact Information Work # 207-791-1175 Cell # Fax# 207-791-1350 e-mail: eadams@pierceatwood.com

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

The applicant is MSD Properties LLC. A copy of the deed demonstrating fee ownership is attached. The applicant is working in partnership with Redfern Properties LLC to rezone and redevelop the property.

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:

The property is currently used for retail service and parking. It is the home of Joe's Super Variety with surface parking to the rear of the store.

Current Zoning Designation(s):

The front half of the property is currently zoned B-3, while the rear half is zoned R-6. We seek Zone Map Amendment for the rear half half of the property to match the front half, such that the entire property would be zoned B-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.

MSD Properties LLC and Redfern Properties are working in conjunction to develop a multi-family apartment building with ground floor retail. Joe's Super Variety would occupy the ground floor retail space. Preliminary renderings of the proposed building are attached.

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 FEE:

Check the type of zoning review that applies. Payment may be made in cash or check payable to the City of Portland.

Zoning Map Amendment <u> </u> x \$2,000.00 (from <u>R-6</u> zone to <u>B-3</u> zone) Zoning Text Amendment <u> </u> \$2,000.00 (to Section 14- <u> </u>) (For a zoning text amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (<u>example</u>) and language to be added is depicted as underline (<u>example</u>)) Combination Zoning Text Amendment and Zoning Map Amendment <u> </u> \$3,000.00 Conditional or Contract Zone <u> </u> \$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.)	Fees Paid (office use) — — — —	The City invoices separately for the following: • Notices (\$.75 each) (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) Third party review is assessed separately.
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Signature of Applicant: 	Date: 3/10/15
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MSD PROPERTIES LLC / MICHAEL J. DISCATO
 MANAGING MEMBER

Further Information
 In the event of withdrawal of the zoning amendment application by the applicant, a refund of two-thirds of the amount of the zone change fee will be made to the applicant as long as the request is submitted to the Planning Division prior to the advertisement being submitted to the news paper.

DEED OF SALE BY PERSONAL REPRESENTATIVE

Maine Statutory Short Form

WE, LOUIS A. DISCATIO, of 18 Smith Farm Lane, Portland ME 04103, and TERESA REO, aka THERESA DISCATIO, of 99 Lowell Street, South Portland ME 04106, duly appointed and acting **PERSONAL REPRESENTATIVES** of the **ESTATE** of **JOSEPH L. DISCATIO**, Cumberland Probate Docket #2012-1034, by the power conferred by the Probate Code, and every other power, and with the right provided by decedent to convey property without notice to devisees or heirs, for consideration paid, **grant** to **MSD PROPERTIES, LLC**, a Maine Limited Liability Company with a principal place of business at 665 Congress Street, Portland ME 04101, certain lots or parcels of land and improvements in Portland, Cumberland County Maine on the northerly side of Congress Street bounded on the south by Congress Street, on the west by Vernon Place, and on the east by Avon Street, of approximately .6 acres, described on Exhibit A attached.

This property was conveyed to Joseph L. Discatio and Mary Discatio as joint tenants by warranty deed of Joseph L. Discatio dated September 16, 1990 and recorded on September 18, 1990 in Book 9322 Page 86 of the Cumberland County Registry of Deeds. Mary Discatio died on July 8, 1999; her estate was not probated.

WITNESS, my hand and seal this 10 day of June, 2013.

Witness

Louis A. Discatio

Grantor – Louis A. Discatio, Personal Representative
Estate of Joseph L. Discatio

Witness

Teresa A. Reo

Grantor – Teresa Reo, aka Theresa Discatio,
Personal Representative Estate of Joseph L. Discatio

State of Maine
Cumberland, SS

Personally appeared before me, the above named Louis A. Discatio and Teresa Reo, aka Theresa Discatio, in their capacity as Joint Personal Representatives of the Estate of Joseph L. Discatio, acknowledged the foregoing instrument to be their free act and deed, and subscribed the same.

Before me,

6-10-2013
Date

Andrew J. Doukas
Andrew J. Doukas, Attorney At Law
ME BAR #2932

MAINE REAL ESTATE TAX PAID

EXHIBIT A – LEGAL DESCRIPTION OF PROPERTY AT 665 CONGRESS STREET,
PORTLAND, CUMBERLAND COUNTY, MAINE

PARCEL I

A certain lot or parcel of land with the buildings thereon, situated on the northwesterly corner of Congress Street and Congress Place, in said City of Portland, County of Cumberland and State of Maine, and having a frontage of thirty-eight (38) feet on Congress Street, and a frontage of about two hundred two (202) feet on Congress Place, with a depth of forty-five (45) feet at the northerly end. Said premises being bounded on the south by Congress Street, on the east by Congress Place, on the north by land now or formerly of T.A. and W.H. Roberts, and on the west by land now or formerly of H.W. and A. Deering, and by land of St. Stephens Church.

Congress Place is now known as Avon Street.

PARCEL II

First: A certain lot or parcel of land situated in said Portland on the easterly side of Vernon Court and numbered 13 and 15 on said Court, and being the same property conveyed by Grenville H. Deering to Ernest J. Eddy by deed dated November 2, 1907 and recorded in Cumberland County Registry of Deeds in Book 816, Page 149, to which deed and the deeds therein referred to reference is hereby made for a more particular description.

Second: A certain lot or parcel of land, with any buildings thereon, situated on the easterly side of Vernon Court in said Portland and being the most northerly lot of land on the easterly side of said Court and being the premises numbered 19 and 21 as shown on the city valuation plan recorded in Cumberland County Registry of Deeds in Book 5, Page 46, and being the same premises conveyed by Elizabeth E. Deering to said Ernest J. Eddy by deed dated December 18, 1908 and recorded in said Registry of Deeds in Book 835, Page 6, to which deed and the deeds therein referred to reference is hereby made for more particular description of the premises.

Third: A certain lot or parcel of land, with any buildings thereon, situated on the northeasterly side of Vernon Court, otherwise known as Vernon Place, and being the same property conveyed by Robert C. Schmidt to said Ernest J. Eddy by deed dated December 14, 1908 and recorded in said Registry of Deeds in Book 835, Page 4, to which deed and the deeds therein referred to reference is hereby made for a more particular description of the premises.

Fourth: A certain lot or parcel of land at 18-22 Avon Street running in a southerly direction towards Congress Street from the southerly boundary line of the former Kelsey property at the southwest corner of Avon and Deering Streets, a distance of seventy-three and one-half (73 ½) feet, more or less to a junction with the property now or formerly of the Avon Corp. located at the west corner of Avon and Congress Streets, bounded on the southerly side by the said property now or formerly of the Trustees of the Dalton Memorial Chapel and Burnham Hall; bounded on the west by property now or formerly of the Trustees of the Dalton Memorial Chapel and Burnham Hall and

bounded on the north by said former Kelsey property and property now or formerly of said Avon Corp.

Fifth: A certain lot or parcel of land at number 11 (called 5) Vernon Place, together with the brick frame dwelling, or apartment house thereon, the said property being bounded as follows: On the northerly side by the land, brick and frame house of the said Dalton Memorial Chapel and Burnham Hall, a distance of forty-five (45) feet, more or less, on the easterly side by property now or formerly of the Avon corp. located at the northwesterly corner of Congress and Avon Streets a distance of approximately thirty-six (36) feet, more or less, to a junction with the land and Parish house of the Rector, Wardens and Vestrymen of St. Stephen's Parish, or Church; on the southerly side by the said land and Parish House of said Rector, Wardens and Vestrymen of St. Stephens's Parish or Church; on the westerly side by the line of Vernon Place.

Sixth: Also releasing and conveying all my right, title and interest in the following described real estate: A certain lot or parcel of land with (any) buildings thereon, situated on the northerly side of Congress Street and numbered 665 ½ Congress Street and now or formerly known as "Joe's Smoke Shop," said land beginning at a point one hundred and eighty-five (185) feet, more or less, from State Street at the easterly line of St. Stephen's Episcopal Church edifice and extending in an easterly direction eight and one-half (8 ½) or nine (9) feet thence in a northerly direction a distance of thirty-six (36) feet; thence approximately seven (7) feet in a westerly direction to the easterly wall of the said St. Stephen's Episcopal Church edifice, the said wall being the westerly boundary of the said property.

Seventh: Also a certain other lot or parcel of land, with any buildings thereon, known as St. Stephen's Church, and situated on the northerly side of Congress Street in said Portland, bounded and described as follows:

Said lot is on the corner of Congress Street and Vernon Court, so-called, and is sixty-three (63) feet on Congress Street running back on Vernon Court one hundred and thirty (130) feet, more or less, on the easterly side of said court as far northerly as the land formerly owned and occupied by Hiram W. and Alvin Deering, said lot is bounded on the easterly side thereof by a line described in a Decree of the Supreme Judicial Court held in and for the County of Cumberland, April Term 1838 in the case of Hannah Harding In Equity vs. Job Randall, as a "line drawn from the northerly corner of said lot to Main Street and intersecting said Street two (2) feet easterly of the easterly end of the dwelling house in said pleadings mentioned and excluding the well near said house," to which Decree, duly entered on the Docket of said Court, in said suit, reference for a particular description of said easterly side line of the lot hereby conveyed is always to be had.

Meaning and intending to convey, and hereby conveying, all right, title and interest in and to lots 19-23 as shown on City of Portland Assessors Chart Plan 46, Block C, as recorded in the City Assessors, Portland, Maine.

Meaning and intending to convey, and hereby conveying, all real estate of the grantor which is situated in the block in said Portland which is bounded southerly by Congress Street; westerly by Vernon Place and easterly by Avon Street.

Received
Recorded Register of Deeds
Jun 10 2013 03:36:33P
Cumberland County
Pamela E. Lovley



P.O. Box 8816
Portland, ME 04104
Office: 207-221-5746
Fax: 207-221-2822
www.redfernproperties.com

March 25, 2015

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for a new development at 665-667 Congress St. in Portland, the site of Joe's Super Variety. The project consists of ground floor commercial space, which will be the new home of Joe's Super Variety and roughly 130 residential rental apartments on Floors 2-8. This meeting pertains to our Zoning Map Amendment Application. Currently the property is Zoned B-3 in the front and R-6 in the rear. We are requesting a Zone Map Amendment which would change the back of the property to the B-3 Zone to match the Zoning at the front of the property.

Meeting Location:	Reiche School Community Room, 166 Brackett St., Portland
Meeting Date:	Wednesday, April 8th
Meeting Time:	6:00pm

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

If you have any questions, please contact me at 207-221-5746 or jonathan@redfernproperties.com. I hope to see you at the meeting.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jonathan Culley".

Jonathan Culley
Redfern Properties LLC

FEBRUARY 23, 2015

665 CONGRESS

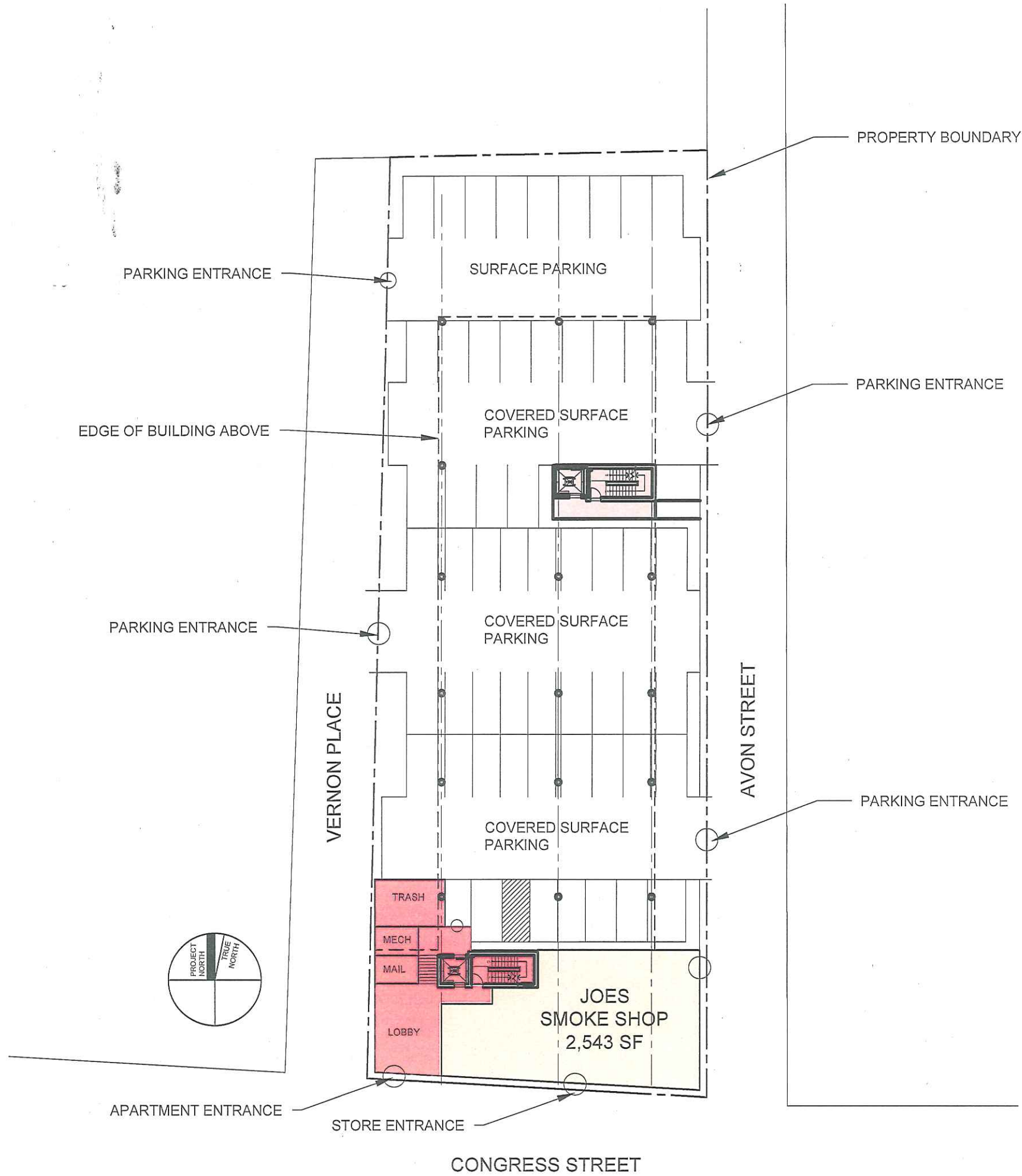


NEIGHBORHOOD BIRDSEYE VIEW

SCALE : NTS

MARCH 5, 2015

665 CONGRESS

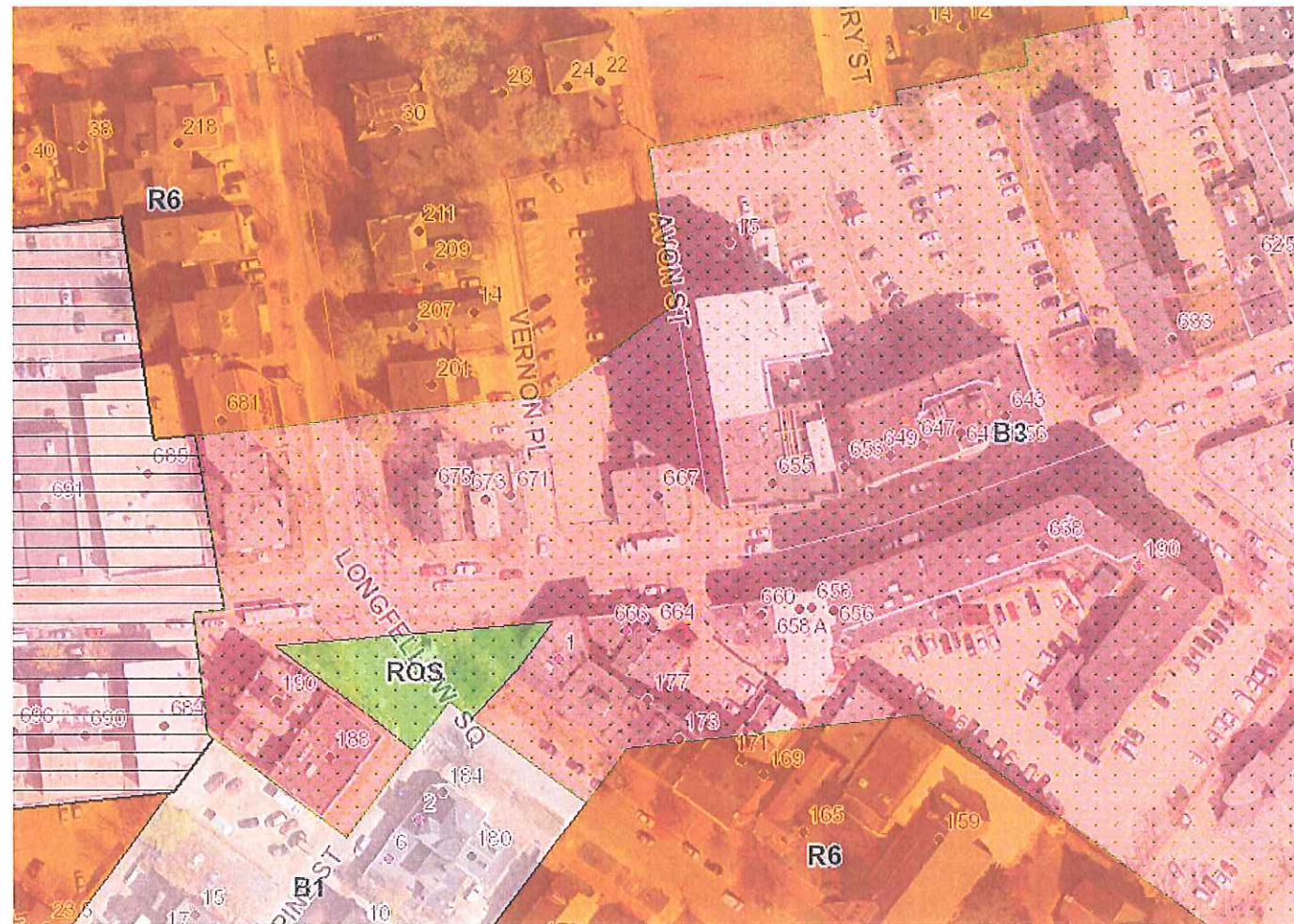


FIRST FLOOR PLAN

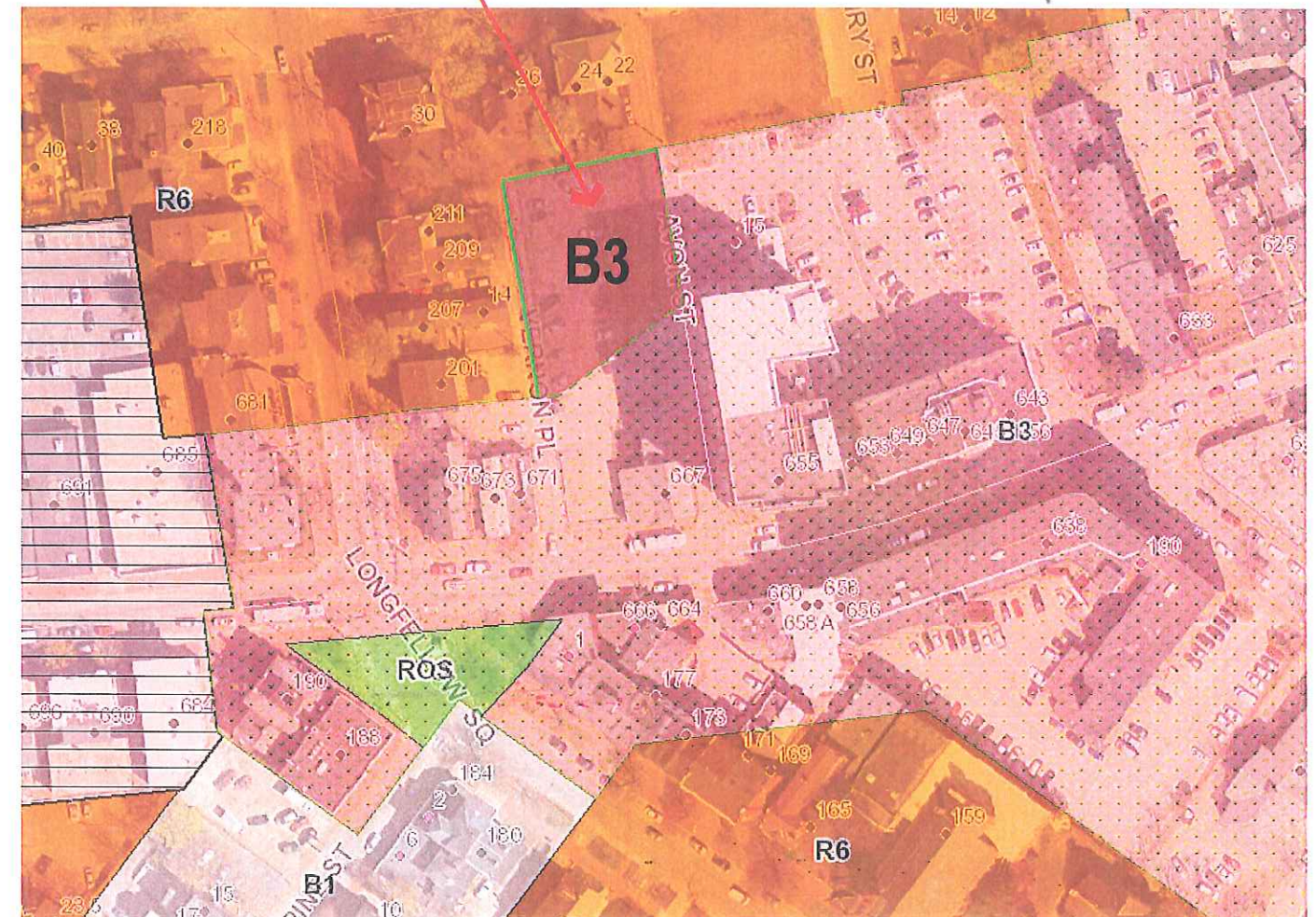
SCALE : 1/32" = 1'-0"

PROGRESS PRINT ONLY
Not for Construction

PROPOSED AREA TO BE REZONED TO B3



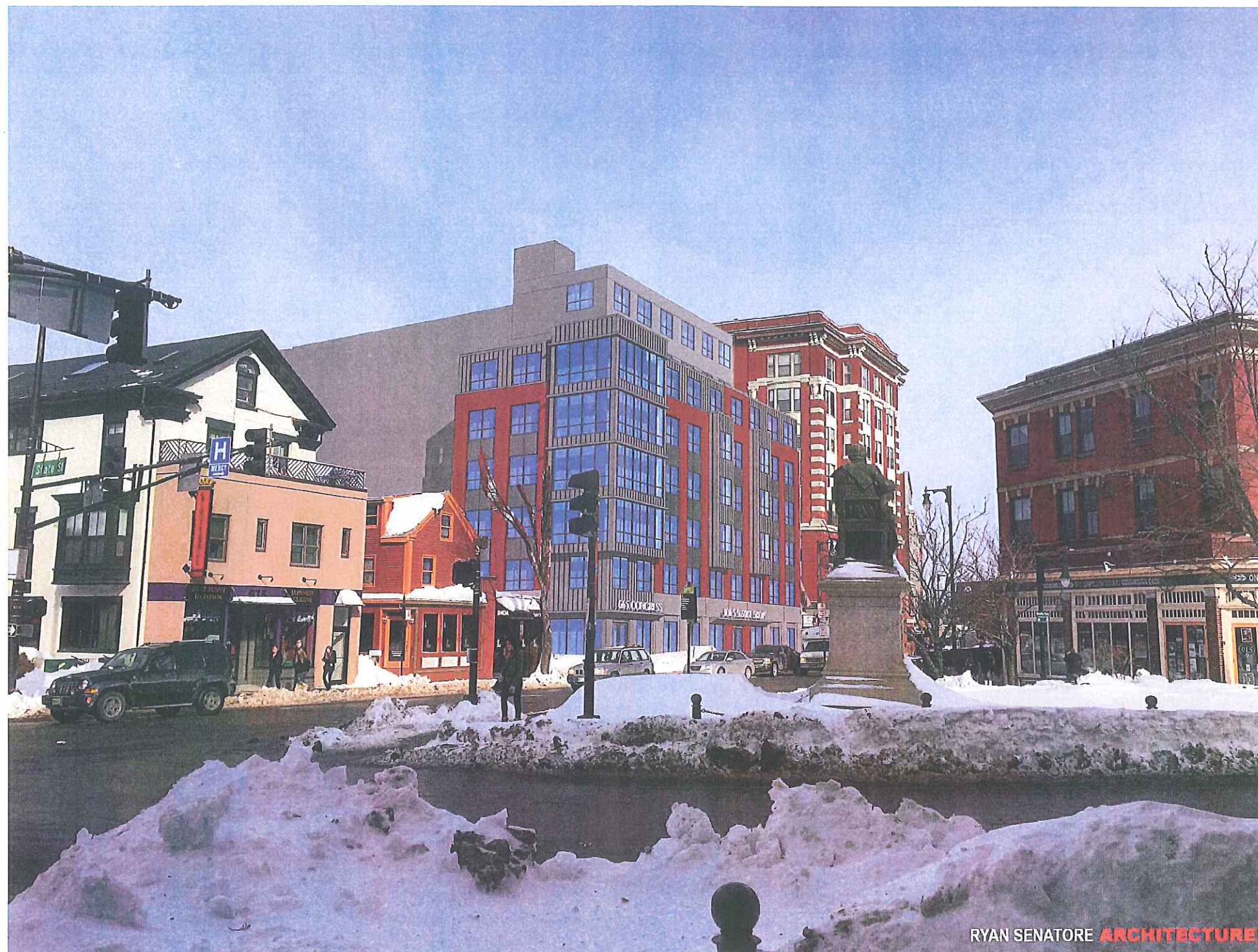
EXISTING ZONING MAP



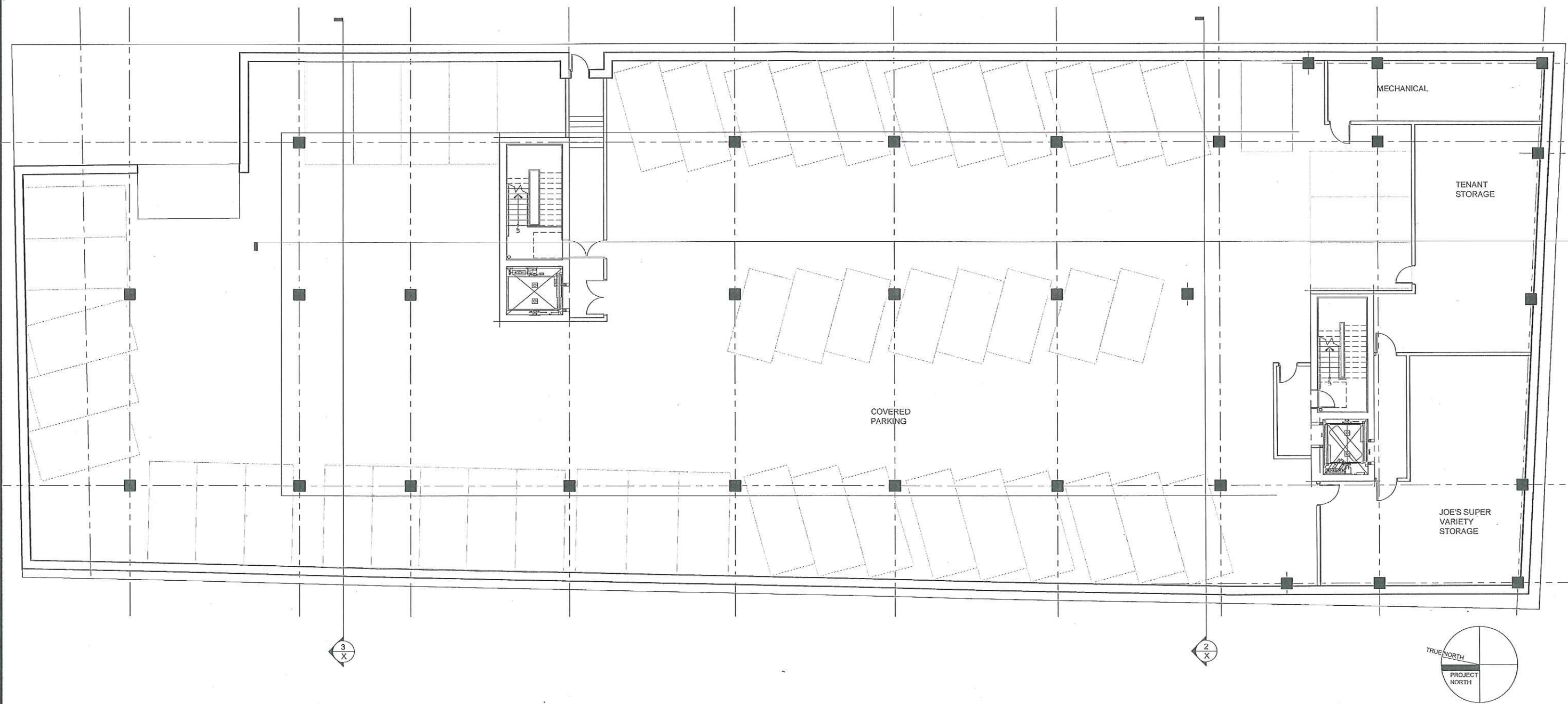
PROPOSED ZONING MAP

665 CONGRESS

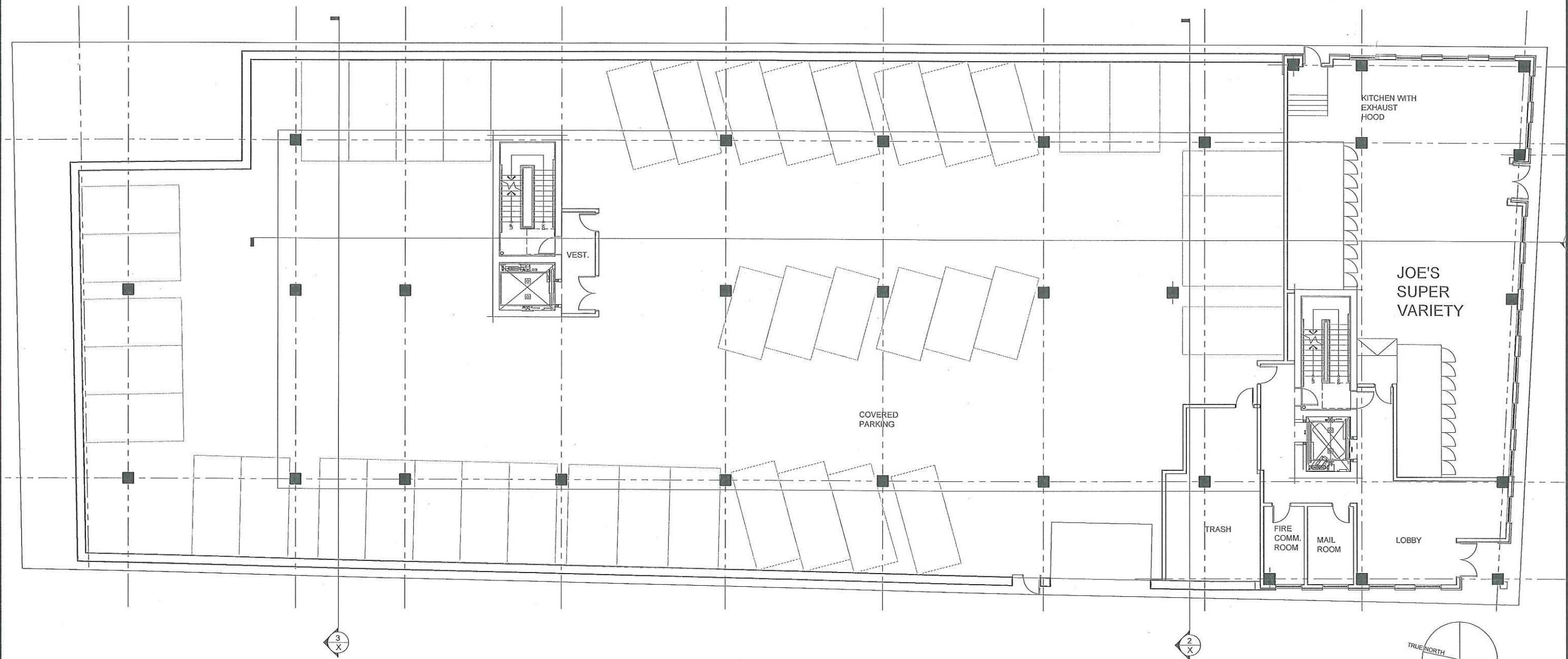
MARCH 5, 2015



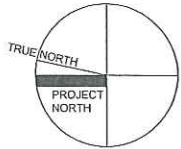
RYAN SENATORE ARCHITECTURE



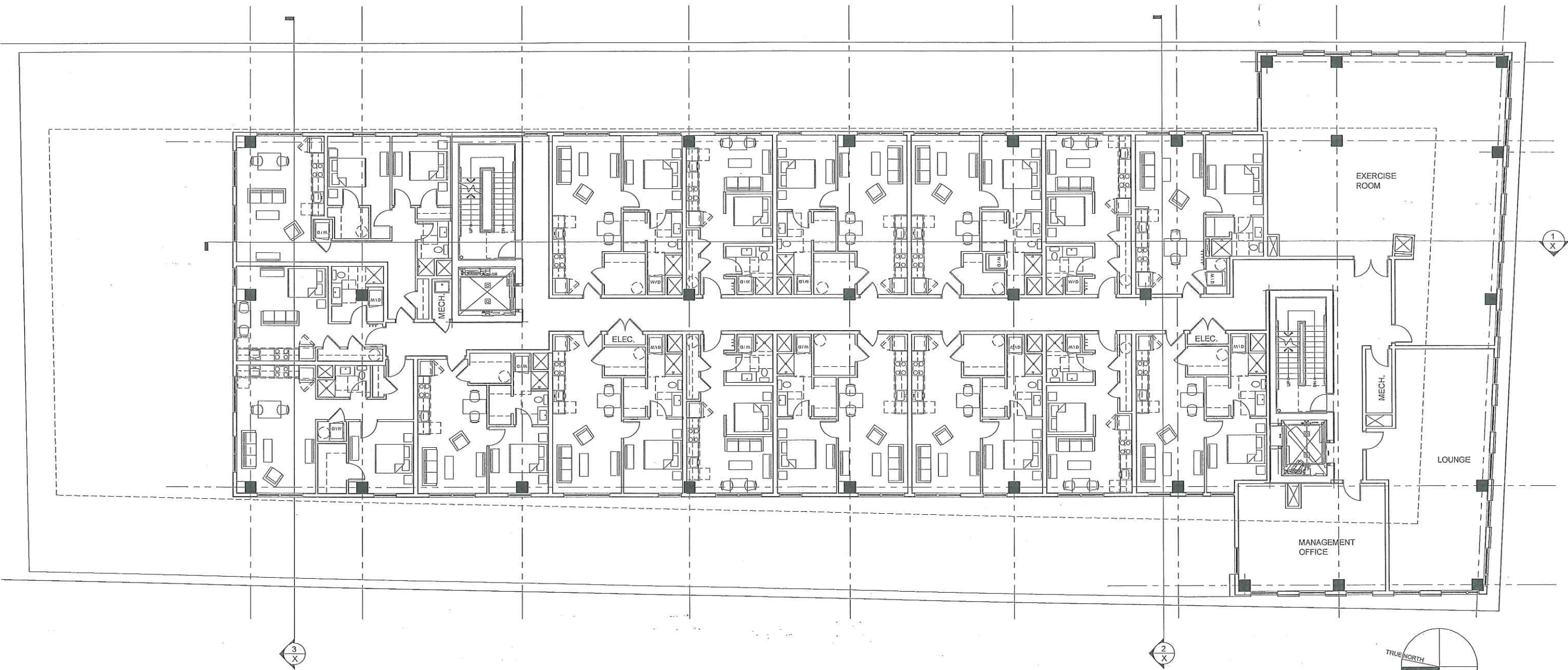
BASEMENT LEVEL



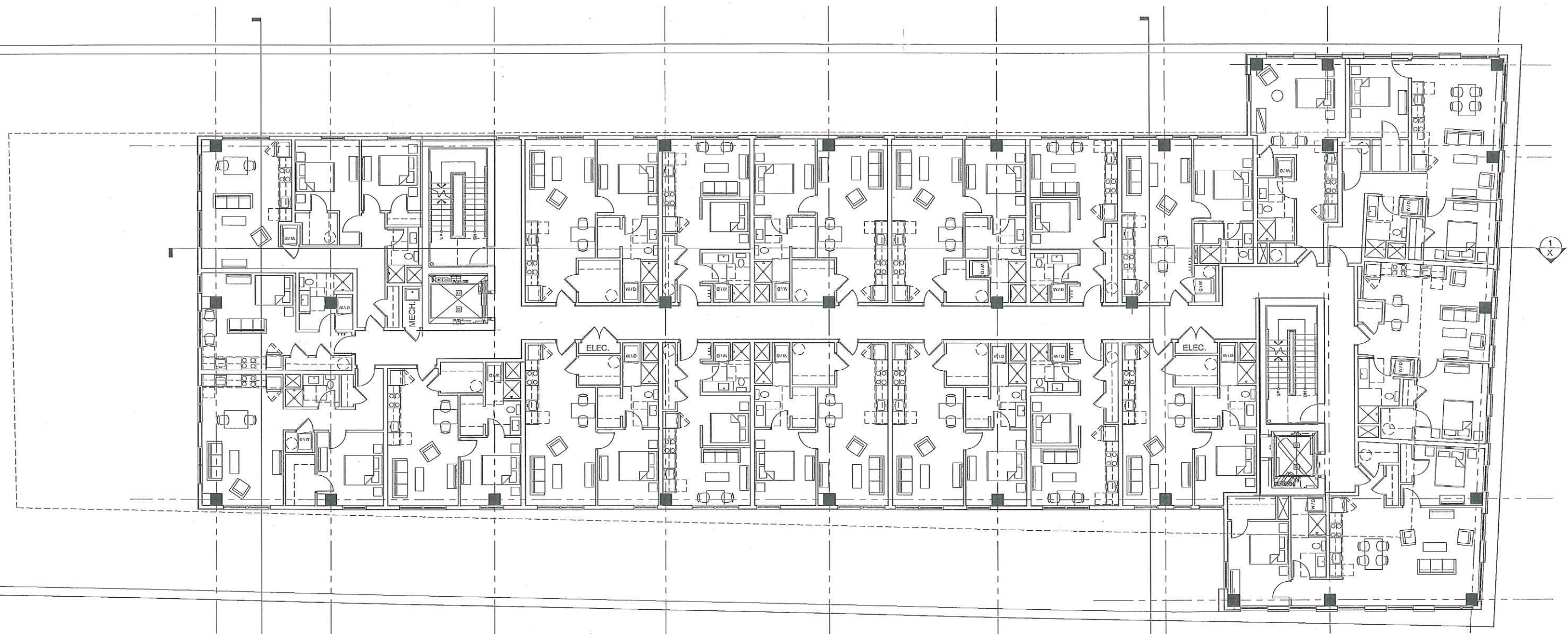
FIRST FLOOR



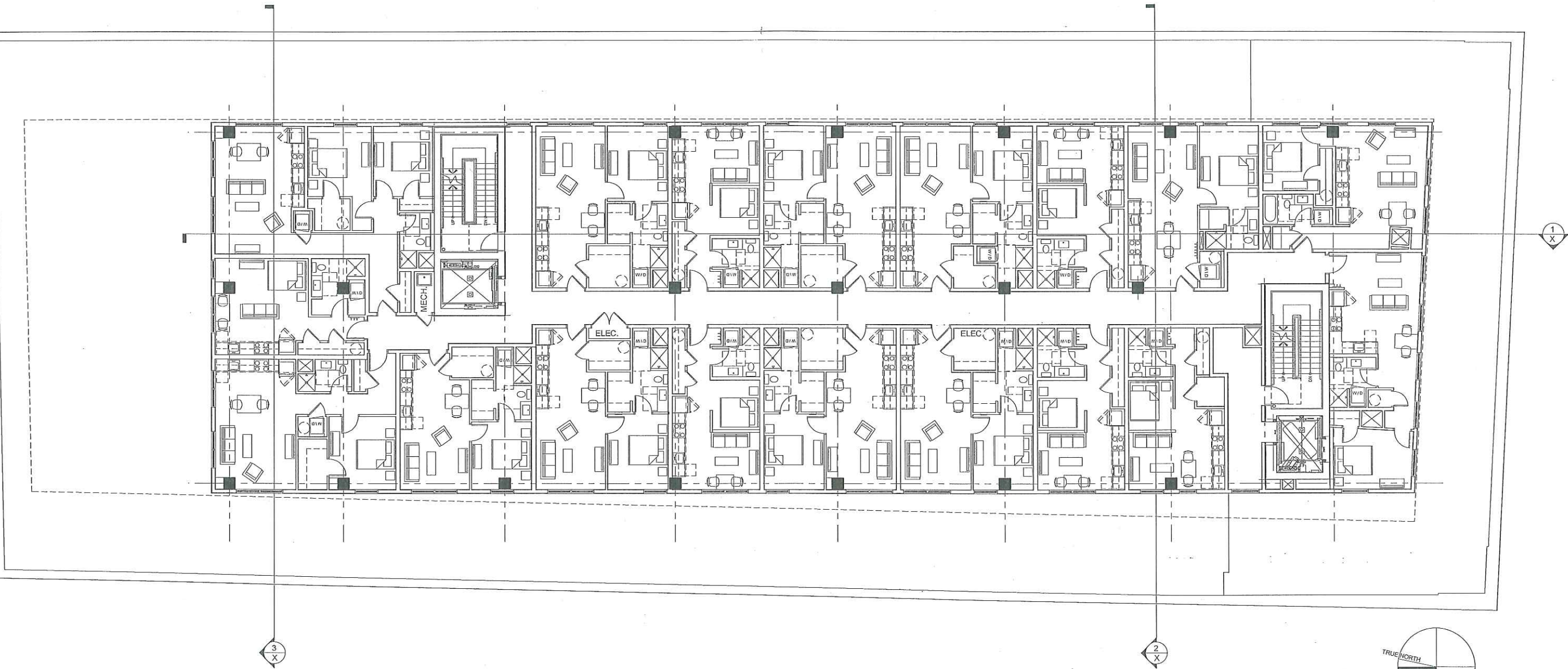
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Not for Construction



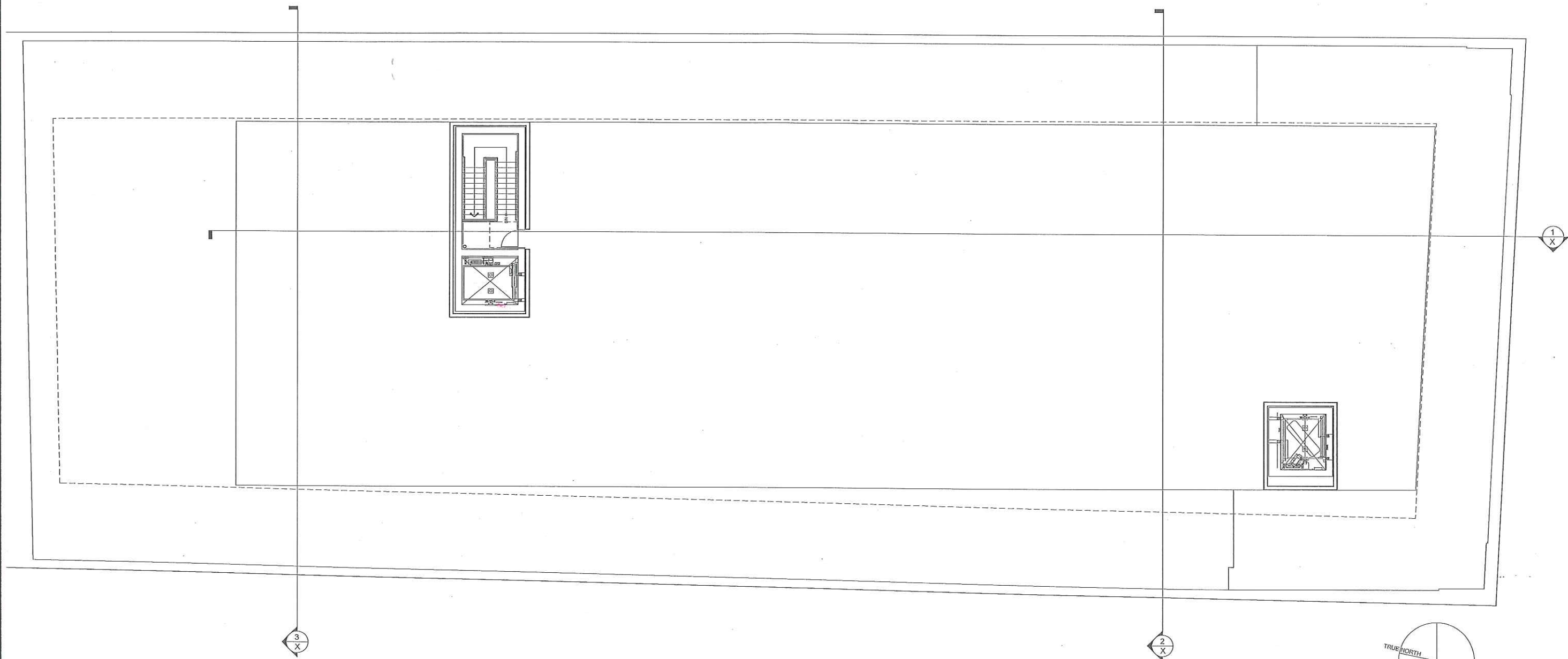
SECOND FLOOR



THIRD FLOOR



SEVENTH FLOOR



ROOF LEVEL

667 CONGRESS

APRIL 16, 2015



667 CONGRESS

APRIL 16, 2015

0 4' 8' 16' 32'
SCALE



667 CONGRESS

APRIL 16, 2015

0 4' 8' 16' 32'
SCALE



667 CONGRESS

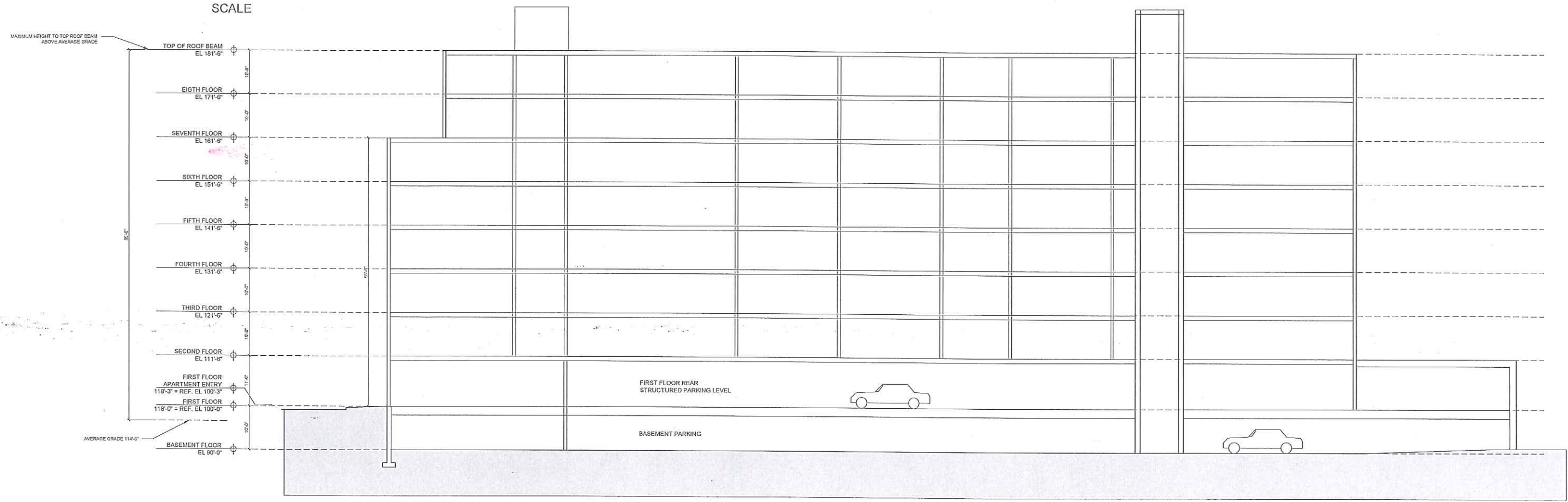
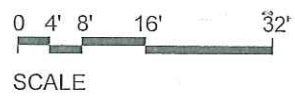
APRIL 16, 2015

0 4' 8' 16' 32'
SCALE



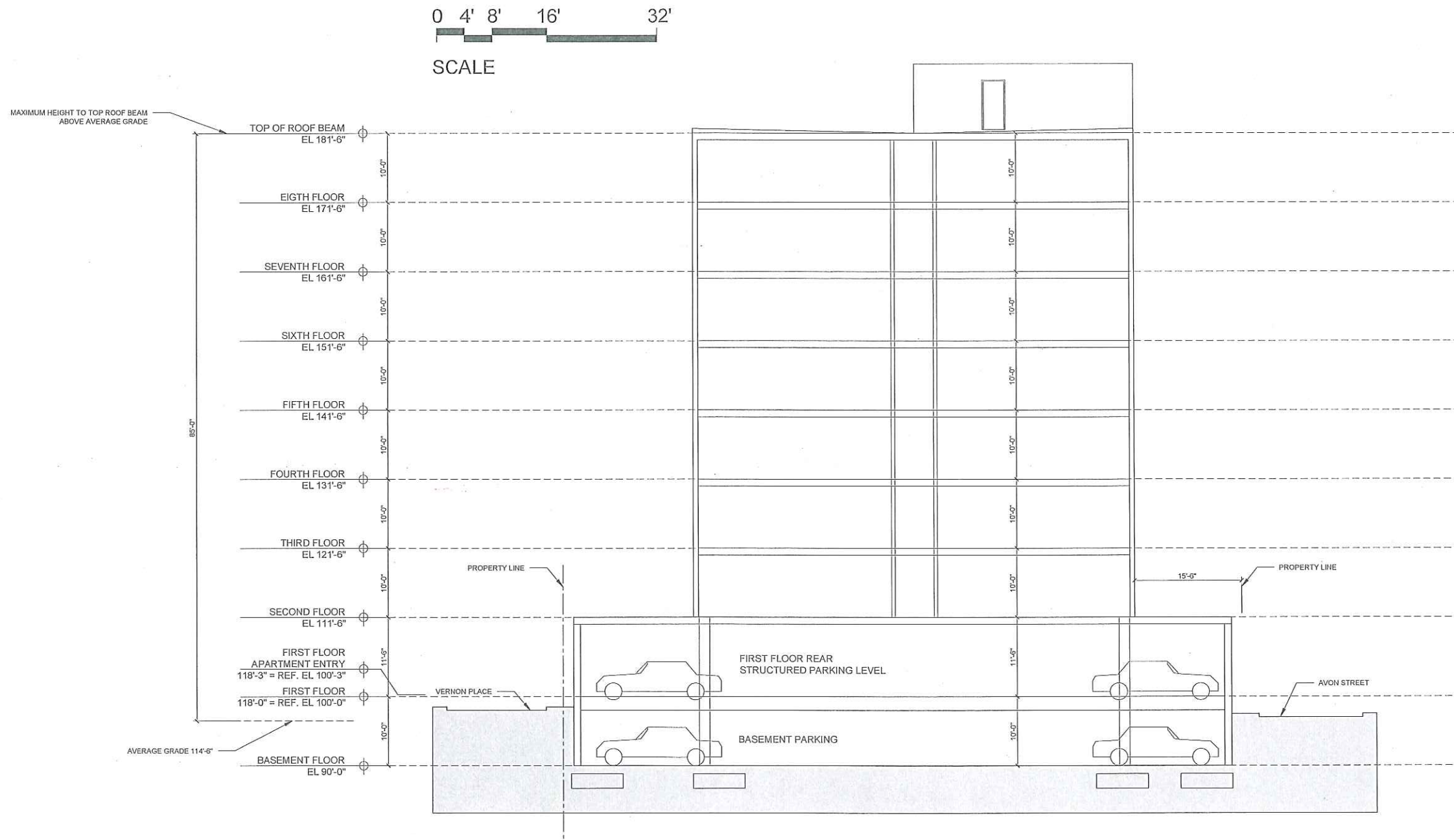
667 CONGRESS

APRIL 16, 2015



667 CONGRESS

APRIL 16, 2015

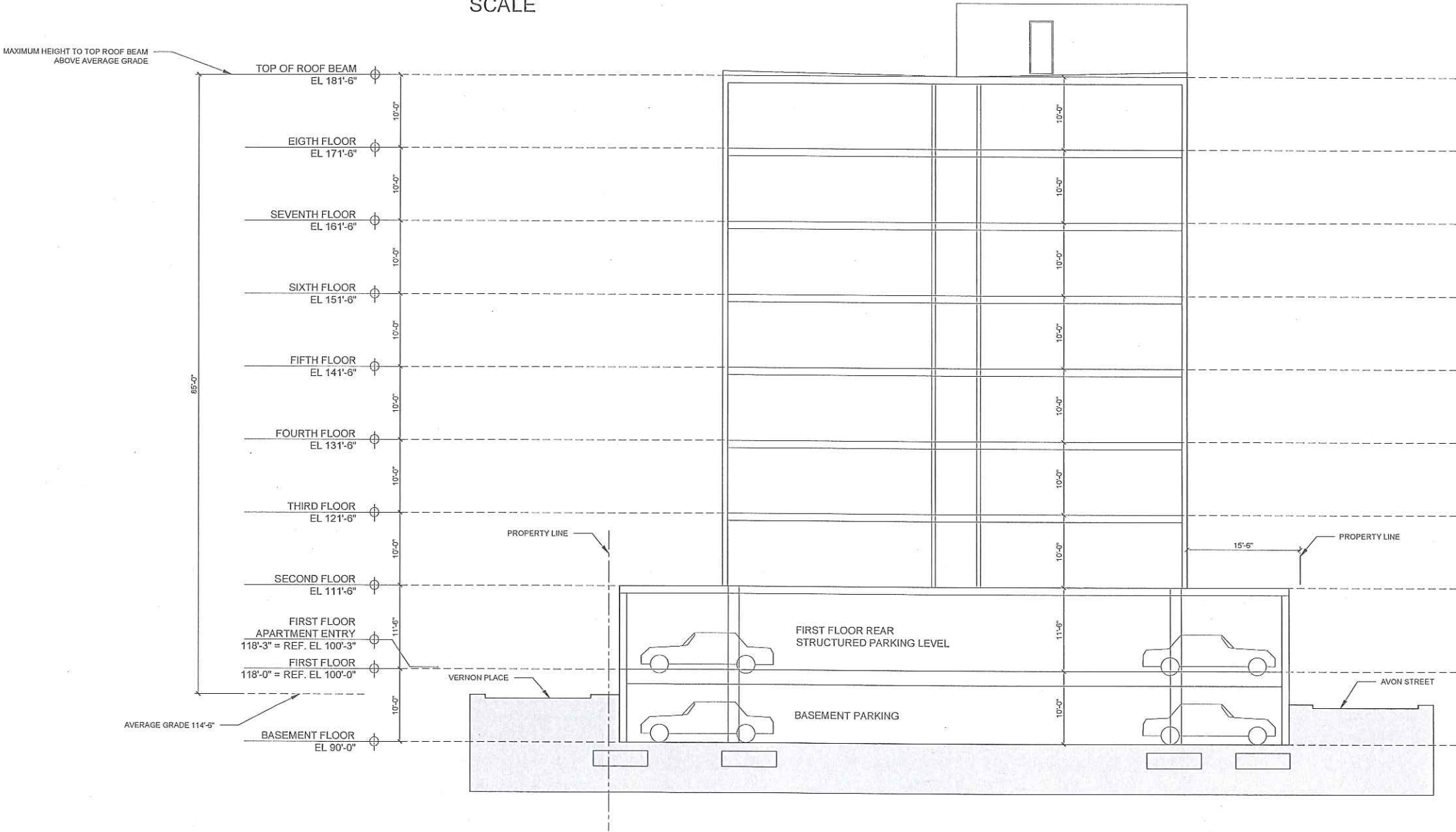
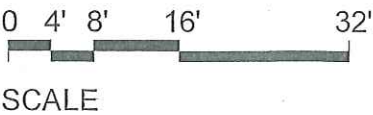


REDFERN  PROPERTIES

SECTION -2
SCALE : 1/8" = 1'-0"

RYAN SENATORE **ARCHITECTURE**

PROGRESS PRINT ONLY
Not for Construction





667 CONGRESS

APRIL 16, 2015

0 4' 8' 16' 32'

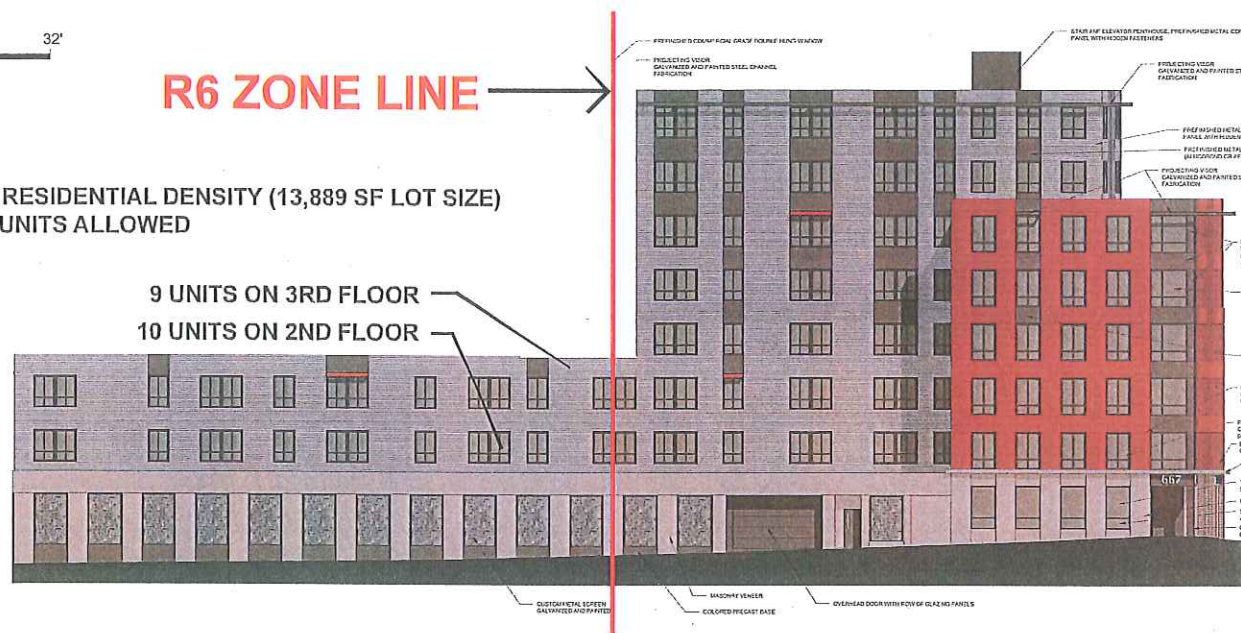
SCALE

R6 ZONE LINE

R6 RESIDENTIAL DENSITY (13,889 SF LOT SIZE)
19 UNITS ALLOWED

9 UNITS ON 3RD FLOOR

10 UNITS ON 2ND FLOOR



REDFERN PROPERTIES

WEST ELEVATION
SCALE: 1/8" = 1'-0"

RYAN SENATORE ARCHITECTURE

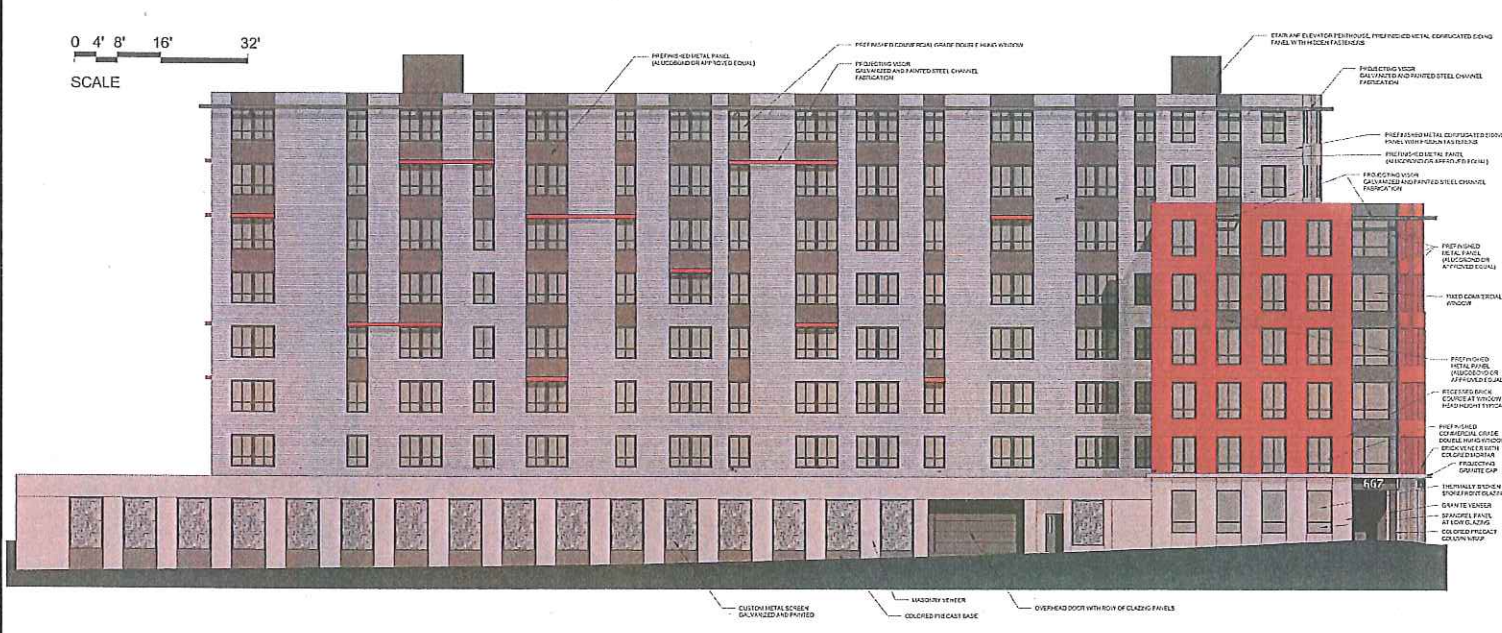
B3/R6 ZONING ELEVATION

667 CONGRESS

APRIL 16, 2015

0 4' 8' 16' 32'

SCALE



REDFERN PROPERTIES

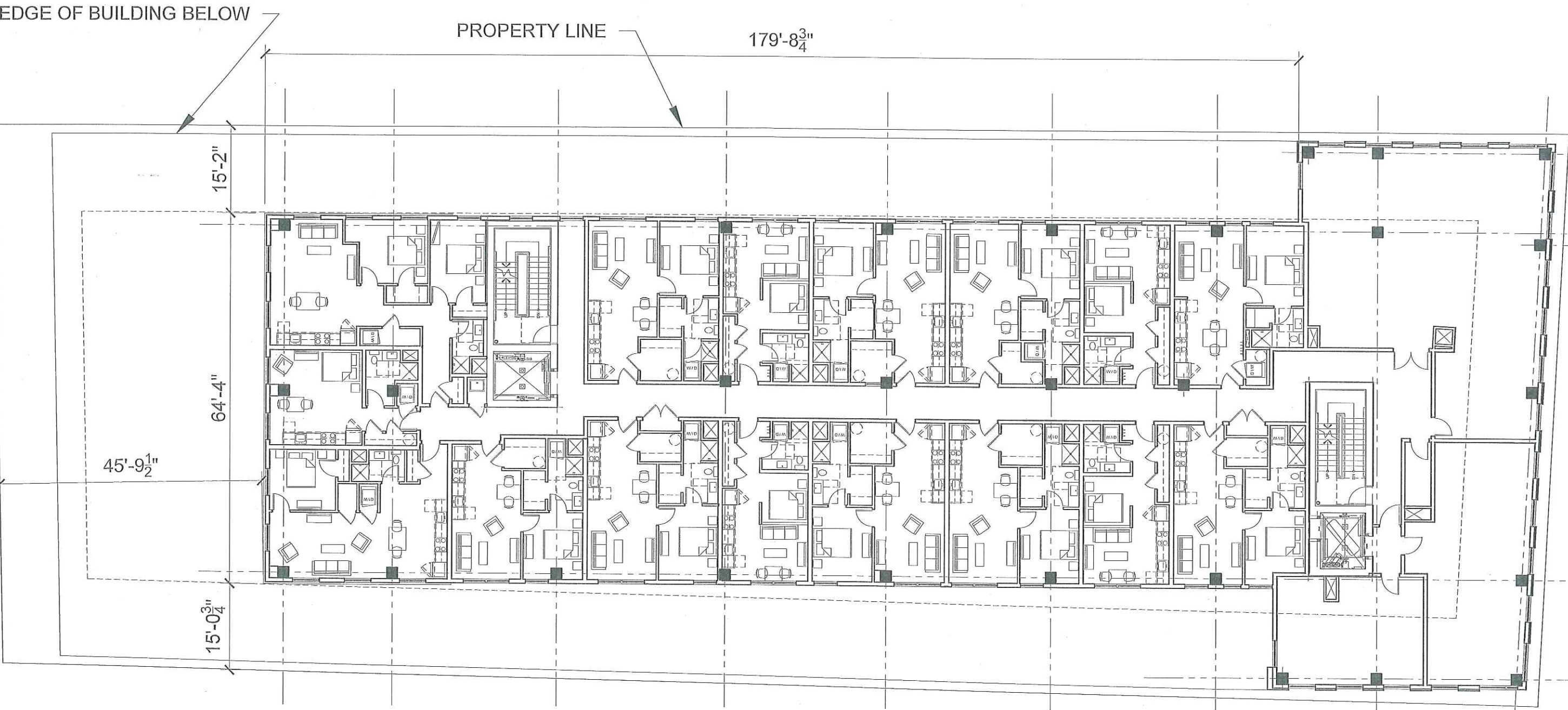
WEST ELEVATION
SCALE: 1/8" = 1'-0"

RYAN SENATORE ARCHITECTURE

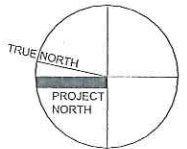
B3 ZONING ELEVATION

667 CONGRESS

APRIL 28, 2015



SECOND FLOOR



PROGRESS PRINT ONLY
Not for Construction

Order 275-14/15
Tab 14 6-1-15

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

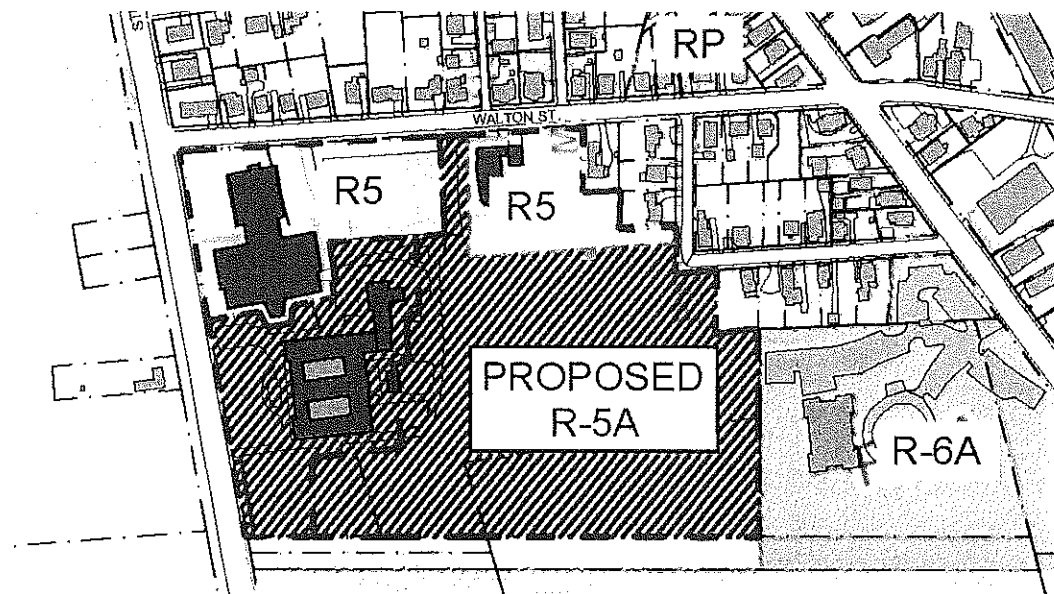
CITY OF PORTLAND
IN THE CITY COUNCIL

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

AMENDMENT TO ZONING MAP
RE: 605 STEVENS AVENUE

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 R-5 Zone in the Proposed R-5A area in the figure below to the R-5A Zone.



605 STEVENS AVE
PROPOSED ZONE MAP CHANGE

MEMORANDUM
City Council Agenda Item

TO: Mayor and City Council
FROM: Alexander Jaegerman, Planning Division Director
DATE: May 18, 2015
DISTRIBUTION: Michael Sauschuck, Acting City Manager, Mayor Brennan, Sonia Bean, Danielle West-Chuhta, Nancy English, Julie Sullivan, Jeff Levine, Jennifer Thompson
SUBJECT: Zoning amendments, 605 Stevens Ave. (McAuley Place Senior/Affordable housing)
SPONSOR: Stuart O'Brien, Chair, Planning Board

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st reading June 1, 2015 **Final Action** June 15, 2015

Can action be taken at a later date: ____ Yes X No (If no why not?) The zoning amendments relate to a project that includes affordable housing for which the Planning Board has given priority review in accordance with Sec 14-487 of the Land Use Ordinance.

PRESENTATION: Planning Board Chair Stuart O'Brien and Alex Jaegerman, Planning Division Director, will make a brief presentation.

I. SUMMARY OF ISSUE (Agenda Description)

Seacoast at Baxter Woods Associates, LLC, requests a map change, with associated text amendments, from the existing R5 zone to the R5A zone for part of a 17.5 acre parcel at 605 Stevens Avenue, subject of a P&S from the Sisters of Mercy. The map amendment is for a 13.5 acre portion that includes the long-vacant "Motherhouse" and surrounding grounds and some playing fields; Catherine McAuley High School and St Catherines Hall are excluded and would remain R5. On May 12, 2015, the Planning Board unanimously voted to recommend the map amendment and text amendments (R5A) to the City Council with a vote of 4-0, Eaton recused, and O'Brien and Morrisette absent.

The zoning amendments have been requested to facilitate the rehabilitation of the Motherhouse for at least 66 affordable housing units and for a surrounding senior retirement community of approximately 200 dwellings on the open land behind the Motherhouse. The text amendments to R5A include: the addition of multifamily housing and congregate care as permitted uses; extension of the existing moderate density of the R5A PRUD (Planned Residential Unit Development) to these uses through amendments to the required lot area per dwelling and the basis of calculation; and clarify 55 feet as the maximum height for these uses along with a requirement for 200 sq ft of open space per dwelling unit.

The applicant had initially requested an R6A zone change that included Catherine McAuley High School and playing fields, with a maximum building height of 60 feet. During the course of the review, the applicant revised their application to reduce the site to be rezoned (excluding McAuley High School and St. Catherines), switch from R6A to R5A (a lower density) and to reduce the maximum building height from 60 to 55 feet. In addition, the applicant is offering McAuley High School a 25 year lease and the school board supports the proposal for an intergenerational campus.

II. REASON FOR SUBMISSION (Summary of Issue/Background)

The applicant has indicated that the rehabilitation of the Motherhouse presents a financial burden on the site and will only be possible with affordable housing and historic tax credits along with benefits from moderate density on the rest of the site. The map and R5A text amendments were initially proposed to facilitate this senior community, including the rehabilitation of the Motherhouse, by allowing a greater height and density than possible in the underlying R5 zone, and also allowing multifamily and congregate care as permitted uses. The scope of the amendments was widened beyond what the applicant specifically requested in order to create a more comprehensive update to the R5A zone.

III. INTENDED RESULT

The proposed map amendment defines the area where the amended R5A zone would apply within the larger Sisters of Mercy site. This not only allows for the overall senior community envisaged by the applicant, but the R5A text amendments create an R5A zone that is clearer and simpler than the existing overlay zone. It removes the existing requirement for a conditional rezoning agreement that was the implementation mechanism for the original R5A overlay zone. The underlying R5 zone would permit colleges, universities or trade schools of up to 55 feet, so a result for this particular site is that these uses are not allowed and the permitted R5A uses are focused on housing and supported residential uses along with open space.

IV. COUNCIL GOAL ADDRESSED

The proposed amended conditional zoning agreement addresses the following Council goal:

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

The amendment would allow moderate density development and help attract funding to support the provision of affordable housing and senior housing.

VI. PLANNING BOARD ANALYSIS

The Planning Board held a three hour public hearing on the McAuley Place request for a zone change from R-5 to R-5A and accompanying text amendments. Many public comments at the hearing raised concerns about traffic, density, massing, potential accidents due to elderly drivers, and impacts on McAuley High School, Baxter Woods and Stevens Avenue. Some comments requested a compromise density (between the existing R5 and proposed R5A), though the applicant had already offered a compromise from their original request for an R-6A zone with much higher density and a maximum building height of 60 feet.

During the 2 workshops on the project the Board had requested additional information regarding potential traffic and massing impacts associated with a “maximum build out” under different amendment scenarios. The Board concluded that the public comment concerns could be addressed during the Master Development Plan & Site Plan reviews. The Board also concluded that the map and zoning text amendments were clearly consistent with the Comprehensive Plan policies that identified this site within a growth area and specifically encouraged the type of senior housing envisaged.

VII. RECOMMENDATION

On May 12, 2015, the Planning Board unanimously voted to recommend the map amendment and text amendments (R5A) to the City Council with a vote of 4-0, Eaton recused, and O'Brien and Morrisette absent. The motion reads:

On the basis of plans and materials submitted by the applicant, the policies of the R5 and R5A Residential Zones, Portland's Comprehensive Plan and the Addendum submitted to the Planning Board May 12, 2015, public comment, the information provided in public hearing on May 12, 2015 for the project #2015-022 (605 Stevens Avenue), and/or other findings as follows:

1. Text Amendments to Definitions, R5A Residential Zone and Site Plan

The Planning Board finds that the proposed text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability, as presented in Attachment 1 of this report, are consistent with the Comprehensive Plan for the City of Portland; and

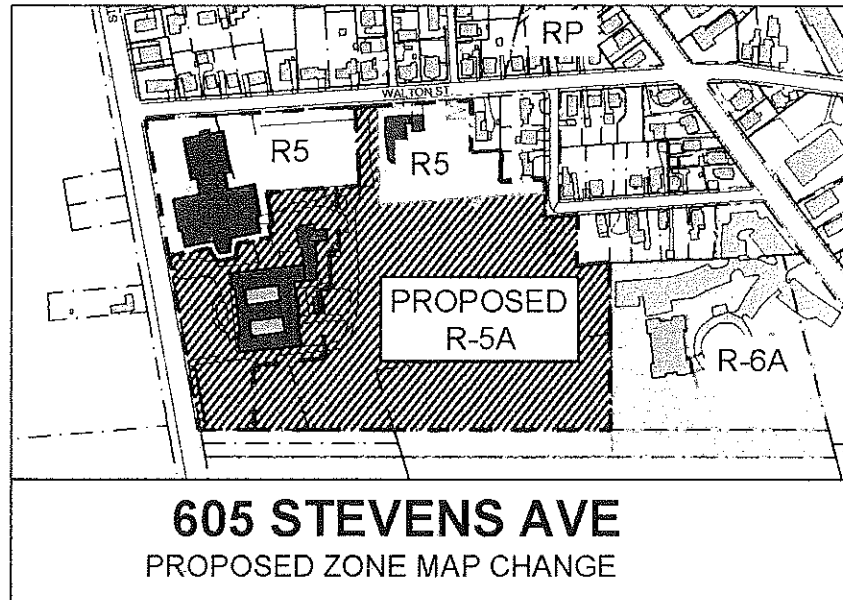
Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability.

[continued]

2. Map Amendment from R5 Residential to R5A Residential:

The Planning Board finds that the proposed rezoning for the a property located at 605 Stevens Avenue is consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning map amendment for 605 Stevens Avenue from R5 Residential to R5A Residential Zone for the area shown below.



VIII. LIST ATTACHMENTS

1. Order (Temporary Text amendment attached 5.18.2015; to be replaced by the Order when its available)
2. Planning Board Report to City Council (to follow)

Prepared by: Jean Fraser, Planning Division

Date: 5.18.2015

**Proposed Text Amendments Definitions; R5A; Site plan
for May 12, 2015 PB Hearing (v 5.18.2015)
Prepared by Portland Planning Staff**

Sec. 14.47 Definitions.

Congregate care facility: A ~~planned~~ residential unit development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Living Unit: An independent self-contained dwelling unit that does not include full kitchen facilities.

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) 1. Stormwater retention areas;~~
- ~~2. Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) Inaccessible areas, as defined in this section;~~
- (d) Wetlands, as defined in this section;
- ~~(e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~

(f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

~~Inaccessible area:~~

~~(a) Land which is separated from the main portion of the development parcel by means of one (1) or more of the following:~~

~~1. Existing easements, rights-of-way or dedicated areas which preclude use in conjunction with the proposed development;~~

~~2. Cullies, drainage swales or watercourses, where the land which is separated thereby from the main development parcel is not to be used for the building of units or is not available for active or passive recreation areas; or~~

~~3. Areas which are located more than three hundred (300) feet from the nearest proposed dwelling unit.~~

~~(b) Areas which are not to be used for building purposes and are connected to the main portion of the development parcel only by a strip of land which is less than fifty (50) feet wide shall also be deducted as inaccessible areas.~~

DIVISION 6.5. R-5A RESIDENTIAL ZONE

Sec. 14-126. Purpose.

The purpose of the R-5A residential zone is:

(a) To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

Sec. 14-127. Permitted uses.

The following uses are permitted in the R-5A residential zone:

(a) Residential:

1. Single-, two-and three-family dwellings.

2. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-130 shall apply with respect to such developments except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. ~~The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.~~ All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions). Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If

manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

6. Multifamily dwellings.

7. Congregate care.

(b) *Other:*

- 1. Parks and other active and passive noncommercial recreation spaces;
- 2. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 3. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
- 4. Municipal use;
- 5. Intermediate, extended and long-term care facilities.

6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

Sec. 14-128. Conditional use.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) Residential:

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.
 - b. There shall be no open outside stairways or fire escapes above the ground floor.
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of the sheltered care group home permit.

(b) Other:

1. Utility substations, including water and sewage pumping stations and standpipes, electric power substations, transformer stations and telephone electronic equipment enclosures, and other similar structures, provided that

such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.

2. Nursery schools and kindergartens.
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
 - e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;

- ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
- iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
- iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
- v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
- vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
- viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:

- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
- b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and

- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

- 5. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

Sec. 14-129. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

Sec. 14-130. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5A zone shall meet or exceed the following requirements:

<u>Minimum Lot Size</u>	<u>Residential (Single-, two- and three-family dwellings): 6,000 SF and a maximum lot size up to 2 acres¹</u>
	<u>Planned residential unit development (PRUD), multifamily development of 4 or more dwelling units, and Congregate Care: 2 acres gross area</u>
	<u>Intermediate, extended or long-term care facilities: 1 1/2 acres.</u>
<u>Min. Lot Area per D.U.</u>	<u>Single-, two- and three-family dwellings: 1,600 SF. Planned residential unit development (PRUD), Congregate Care and Multifamily development of 4 or more dwelling units: 1600 SF of net land area.²</u>
<u>Min. Lot Area per Resident</u>	<u>Minimum land area per intermediate care facility resident: 8,000 SF gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.</u>
<u>Min. Street Frontage</u>	<u>50 feet.</u>
<u>Min. Yard Dimensions for Single-, two- and three-family dwellings²</u>	<u>1. Front yard: Principal or accessory structures: 25 feet.</u> <u>2. Rear yard:</u> <u>a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: 25 feet.</u> <u>b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: 5 feet.</u> <u>Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.</u> <u>(continued)</u>

¹ A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest. Except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.

² Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.

	3. <u>Side yard:</u> a. <u>Principal or accessory structures with ground coverage greater than one hundred (100) square feet:</u> <table> <tr> <th><u>Height of Structure</u></th><th><u>Required Side Yard</u></th></tr> <tr> <td>1 story</td><td>10 feet</td></tr> <tr> <td>1 1/2 stories</td><td>10 feet</td></tr> <tr> <td>2 stories</td><td>14 feet</td></tr> <tr> <td>2 1/2 stories</td><td>16 feet</td></tr> </table> <u>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.</u> b. <u>Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: 5 feet.</u> 4. <u>Side setback on side streets: Principal or accessory structures: 20 feet.</u>	<u>Height of Structure</u>	<u>Required Side Yard</u>	1 story	10 feet	1 1/2 stories	10 feet	2 stories	14 feet	2 1/2 stories	16 feet
<u>Height of Structure</u>	<u>Required Side Yard</u>										
1 story	10 feet										
1 1/2 stories	10 feet										
2 stories	14 feet										
2 1/2 stories	16 feet										
<u>Maximum Structure Height</u>	Principal residential (single, two and three-family) or attached accessory structure: 35 feet. Accessory detached structure: 18 feet. Principal or attached accessory structure for PRUD, Multifamily development of 4 or more dwelling units, Congregate Care and Intermediate, extended or long-term care facilities: 55 feet.										
<u>Max. Lot Coverage</u>	30%										
<u>Minimum Lot Width</u>	60 feet										
<u>Minimum building setback from external subdivision property lines</u>	PRUD, multifamily development of 4 or more dwelling units, Congregate Care, and Intermediate, extended or long-term care: a. <u>Building length of one hundred (100) feet or less: 25 feet.</u> b. <u>Building length of greater than one hundred (100) feet: 35 feet.</u>										
<u>Minimum recreation open space area</u>	PRUD, multifamily development of 4 or more dwelling units, and Congregate Care: 200 SF per dwelling unit or living unit of common area designated on the site for recreation purposes.										

~~(a) Minimum lot size:~~

~~Residential: Six thousand (6,000) square feet, except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest.~~

~~Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.~~

~~Intermediate, extended or long term care facilities: One and one-half (1 1/2) acres.~~

~~(b) Minimum lot area per dwelling: Sixteen hundred (1,600) square feet.~~

~~Planned residential unit development (PRUD): Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.~~

~~(c) Minimum street frontage: Fifty (50) feet. PRUD development: Fifty (50) feet.~~

~~(d) Minimum yard dimensions:~~

~~(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)~~

~~1. Front yard:~~

~~Principal or accessory structures: Twenty five (25) feet.~~

~~2. Rear yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty five (25) feet.~~

~~b. Accessory detached structures with a ground coverage of one hundred and forty four (144) square feet or less: Five (5) feet.~~

~~Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~3. Side yard:~~

- ~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~Height of Structure Required Side Yard~~

~~1 story 10 feet~~

~~1 1/2 stories 10 feet~~

~~2 stories 14 feet~~

~~2 1/2 stories 16 feet~~

~~The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.~~

- ~~b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~4. Side setback on side streets:~~

~~Principal or accessory structures: Twenty (20) feet.~~

~~(c) Maximum lot coverage: Thirty (30) percent of lot area.~~

~~(f) Minimum lot width: Sixty (60) feet.~~

~~Minimum building setback from external subdivision property lines (PRUD):~~

- ~~a. Building length of one hundred (100) feet or less: Twenty five (25) feet.~~

- ~~b. Building length of greater than one hundred (100) feet: Thirty five (35) feet.~~

~~(g) Minimum recreation open space area: Two hundred (200) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a~~

~~contiguous area of six thousand (6,000) square feet, with a minimum dimension of fifty (50) feet, shall be provided and shall include one (1) or more of the uses set forth in section 14-526 (d) 9. and the planned residential unit development standards in the City of Portland Design Manual, but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty five (25) feet from dwelling units.~~

Sec. 14-131. Other requirements.

[Other requirements are as follows:]

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate, extended and long term care facilities in the R5A and R6A zones.

PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE



R5A Zoning Map and Text Amendments for McAuley Place
605 Stevens Avenue

Seacoast at Baxter Woods Associates, LLC, Applicant
Project #: 2015-022

Submitted to: Portland City Council	Prepared by: Jean Fraser, Planner
From: Portland Planning Board	Date: May 22 nd , 2015
Second City Council Reading: June 15, 2015	CBL: 136 E006001

I. INTRODUCTION

Seacoast at Baxter Woods Associates, LLC, requests a map change, with associated text amendments, from the existing R5 zone to the R5A zone for part of an approximately 18 acre parcel at 605 Stevens Avenue. The parcel is owned by the Sisters of Mercy, who have been considering options for the future of the former convent known as the "Motherhouse" and associated land and buildings in their ownership, since the Motherhouse became vacant about 10 years ago.

The applicant has a P&S from the Sisters of Mercy for the entire site (which includes Catherine McAuley High School and St Catherine's Residence Hall), but seek the zoning amendments for a smaller site of 13.5 acres with approximately 400 feet of frontage on the east side of Stevens Avenue. It abuts the Deering Pavilion and Baxter Woods and is opposite Evergreen Cemetery across Stevens Avenue. It also has frontage along Walton, Pershing and Holly Streets. This smaller site is proposed for a senior retirement community of about 200 new dwellings and rehabilitation of the Motherhouse for at least 66 affordable senior housing units and 22 market-rate senior housing units. Catherine McAuley High School and St Catherine's Hall are excluded from the map amendment and would remain in the R5 zone.

On May 12, 2015, the Planning Board unanimously voted to recommend the map amendment and text amendments (R5A) to the City Council with a vote of 4-0, Eaton recused, and O'Brien and Morrisette absent.

On the basis of plans and materials submitted by the applicant, the policies of the R5 and R5A Residential Zones, Portland's Comprehensive Plan and the Addendum submitted to the Planning Board May 12, 2015, public comment, the information provided in public hearing on May 12, 2015 for the project #2015-022 (605 Stevens Avenue), and/or other findings as follows:

1. Text Amendments to Definitions, R5A Residential Zone and Site Plan

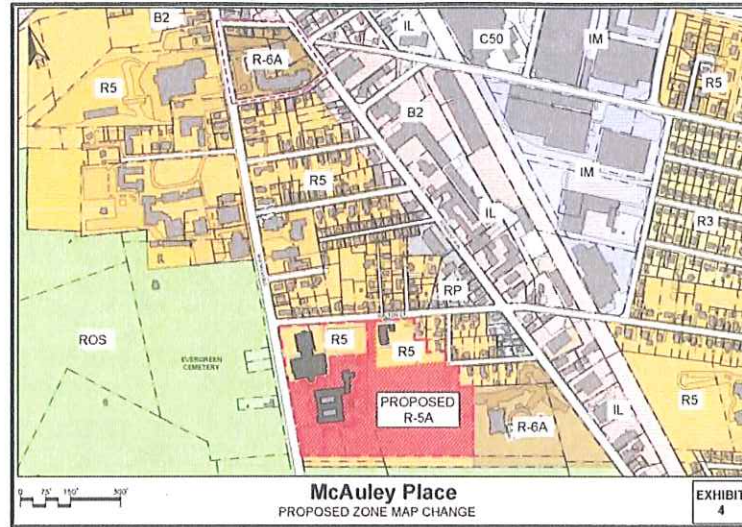
The Planning Board found that the proposed text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability, as presented in Attachment 1 of this report, are consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability.

2. Map Amendment from R5 Residential to R5A Residential:

The Planning Board found that the proposed rezoning for the a property located at 605 Stevens Avenue is consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning map amendment for 605 Stevens Avenue from R5 Residential to R5A Residential Zone for the area shown below.



The Addendum referred to in the main motion above provides additional policy and legal background on how the Comprehensive Plan applies in this case- the full text is in Section IX *Comprehensive Plan Analysis* below.

II. SUMMARY OF ZONING REQUEST

The applicant had initially requested an R6A zone change that included Catherine McAuley High School and associated playing fields, with a maximum building height of 60 feet. During the course of the review, the applicant revised their application to reduce the site to be rezoned (excluding McAuley High School, St. Catherine's and one playing field), to switch from R6A to R5A (a lower density) and to reduce the maximum building height from 60 to 55 feet. In addition, the applicant is offering McAuley High School a 25 year lease and the school board supports the proposal for an intergenerational campus.

The applicant has indicated that the rehabilitation of the Motherhouse presents a financial burden on the site and will only be possible with affordable housing and historic tax credits along with benefits from developing at a moderate density on the rest of the site. The map and R5A text amendments requested by the applicant focused on achieving the moderate density and mixed residential uses and were more limited than the text amendments presented in this report. The applicants seek greater height and density than possible in the underlying R5 zone, and to add multifamily and congregate care as permitted uses.

The scope of the amendments was widened beyond what the applicant specifically requested in order to create a more comprehensive update to the R5A zone that is clearer and simpler. It removes the existing requirement for a conditional rezoning agreement that was the implementation mechanism for the original R5A overlay zone (via a PRUD - Planned Residential Unit Development). The moderate density of the existing R5A PRUD is proposed to be extended to multifamily and congregate care developments through amendments to the required lot area per dwelling and the basis of calculation. The R5A zone did not specify height, so the proposed amendments clarify 55 feet as the maximum height for these uses along with a requirement for 200 sq ft of open space per dwelling unit.

The neighbors consider change from R5 to R5A a substantive change because it increases density and height for the multifamily residential uses. The Board considered the density to be appropriate (see Section X. below) and the decision was based on additional traffic and massing information as it related to the maximum residential build out allowed by the proposed zoning amendments. It was also noted that the underlying R5 zone would permit colleges, universities or trade schools of up to 55 feet, and if rezoned to R5A these uses would not be allowed.

III. PUBLIC COMMENT

A notice of the City Council Hearing will be sent to the 128 property owners within 500 feet and interested citizens, and the legal advertisement will appear in *Portland Press-Herald* in accordance with the city's noticing requirements. A Neighborhood Meeting is required for this project and was held in the Motherhouse on April 2, 2015; the notes are in [Att. H](#). The Neighborhood meeting was attended by about 100 people and Planning Division staff also attended to answer any questions regarding the zoning interpretation or zone amendment process.

Written comments are included as attachments PC 1 to PC 36 as received from the beginning of the Planning Board review to the time this Report was completed. Any additional comments received before the City Council Hearing will be circulated to the Council members prior to the hearing.

Most of the comments relate to the revised R5A zoning amendments (PC3 onward) and have been received from 25 different individuals (some sending more than one comment) during the Planning Board review. These can be summarized as follows:

- 14 neighbors raising objections, including a legal opinion regarding consistency with the Comprehensive Plan (PC 26);
- 10 in support, including from the owners Sisters of Mercy (PC9), Catherine McCauley High School (PC10); Topsham Town Manager in support of the developer (PC31) and Greater Portland Landmarks (PC33);
- 1 with questions.

In addition there were many public comments at the Planning Board hearing which elaborated on the concerns that had been articulated at the two workshops and in the letters about potential traffic, density, massing, possible accidents due to elderly drivers, and impacts on McAuley High School, Baxter Woods and Stevens Avenue. Some comments requested a compromise density (between the existing R5 and proposed R5A), though the applicant had already offered a revised amendment from their original request for an R-6A zone which would have had a much higher potential density and a maximum building height of 60 feet.

IV. PROJECT DATA FOR AREA WITHIN PROPOSED MAP AMENDMENT

Parcel Size:	13.53 acres (area for which rezoning is requested)
Existing Zoning:	Residential R-5
Existing Uses:	Former convent; open land, part playing fields used by school
Proposed Use:	Affordable Age-restricted Housing in existing Motherhouse; Residential Senior Independent Living Units (Congregate Care); Intermediate Care

Residential data as proposed (latest Conceptual Master Plan in Plan P3):

- Affordable housing units: 66 +/- along with 22 market rate housing units in Motherhouse;
- Approximately 206 units (senior multifamily and congregate care independent units) in new buildings in current proposal;
- Approximately 36 future units in the Smith House wing (a part of the Motherhouse not proposed for the first phase affordable housing), should it become available.

Parking, access and other aspects are conceptual at this stage (see Conceptual Master Plan below and in Plan P4) and the applicant intends to submit a Master Development Plan for the overall development and the phases. The first phase is the renovation of the Motherhouse for 88 housing units as described above.

V. EXISTING CONDITIONS

a. Background

The original cover letter (Attachment B) includes a history of the site, which started as a convent in the late 19th century for the Sisters of Mercy in Portland and originally included a church. The area now proposed to be rezoned to R5A includes one building, the now-vacant convent, which is known as the Motherhouse (photo right; additional photos in Attachment F).

The developers are seeking historic tax credits for the renovation and reuse of the main part of the Motherhouse building (excluding the north "ell" known as the Smith House and currently used by the High School) in view of the costs associated with its age, interior layout and condition. The National Park Service has confirmed its eligibility for those tax credits. While it qualifies for historic tax credits, it has never been identified for designation as a local landmark and currently has no historic designation.



It is understood from the City's Historic Preservation Program Manager that if historic tax credits are sought towards the rehabilitation of the Motherhouse, that any new construction in the vicinity would be subject to review for its scale/visual impact on and general compatibility with the Motherhouse itself (Attachment 4).

b. Existing Conditions

The site is within the R5 zone and abuts the Deering Pavilion (shown on Plans P1 and P3) which is zoned R6A. The north and north-east parts of the site abut an area of single and multifamily homes (all in R5) and the Forest Avenue RP zone is nearby. Baxter Woods abuts the south side of the site and the Evergreen Cemetery is opposite on Stevens Avenue.

The School is currently accessed by two one-way drives from Walton Street direct into the existing parking lot. There are two small drives with gates on Stevens Avenue that go directly to the front of the Motherhouse.

Walton Street is a residential street connecting Stevens Avenue and Forest Avenue, with signals at both intersections. Under the Federal Street Classification system Stevens Avenue is classified as a "Minor Arterial" (other "Minor Arterials" in Portland are Warren Avenue and Washington Avenue) and Forest Avenue is classified a "Principal Arterial" (other "principal Arterials" in Portland are Brighton Avenue and outer Congress Street).

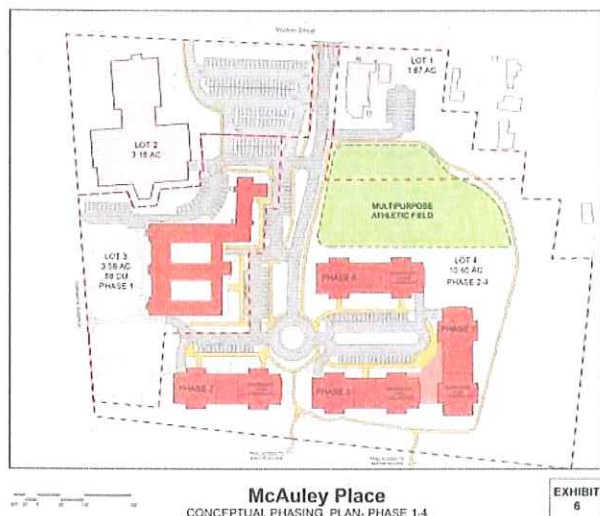
VI. PROPOSED DEVELOPMENT

The applicant's most recent submission is attached at Attachment I-L and Plans P2-P5. The cover letter in Attachment I updates the details of the proposals and addresses the Board's request for information on traffic implications and massing of the proposed buildings.

The project is a package of interdependent proposals that would be funded from a number of different sources to create a retirement community with two components totaling about 330 units once all phases are completed:

- Affordable multifamily housing (some at market rate) for seniors, in the existing Motherhouse (using historic and housing tax credits to address the high cost of rehabilitation);
- Independent units for seniors on land near and behind the Motherhouse, which could be considered as multifamily and possibly congregate care depending on the support services provided.

The concept presented in April (left below) excluded McAuley High School and it remains on a 3.18-3.50 acre lot. St Catherine's Residence Hall also is excluded from the proposed R5A zoning and remains on a 1.86 acre lot. It is understood that any redevelopment of St Catherine's Residence Hall and McAuley High School would be considered separately as appropriate in the future, and the applicant is in discussions regarding the arrangements to maintain these uses over the medium-term.



Submitted for April PB Workshop



Submitted for May PB Public Hearing

A similar but updated Conceptual Master Plan was received May 7th (Plan P4, and above right) which proposes a potential 4 building senior living campus of 4 and 5 story buildings. The concept design represents a build out of

approx. 206 units plus 88 Motherhouse units and potential for 36 +/- future units in the Smith house wing, should it ever become available, for a total of approximately 330 units, consistent with prior projections for the overall project. The recent plan shows that there would be more smaller buildings on the open land behind the Motherhouse, but this would represent a lower number of total dwelling units in the new buildings (about 200, compared to 240 in the initial proposal).

The overall total remains about 330 dwelling units because the applicants may be able to rehabilitate the Smith House (north ell of the Motherhouse which is currently used by the School) for approximately 36 dwelling units.

For the purposes of the zoning amendments now under consideration, the precise proposal is not under review and the layout and design would be reviewed in detail at the Master Development Plan and site plan stage to ensure that the final proposals addressed all factors, including traffic, parking, stormwater management, open space provision and scale/massing.

VII. PROPOSED ZONING AMENDMENTS

In conjunction with the requested map amendments, the applicant has requested R-5A text amendments to accommodate the proposed development. Soon after McAuley Place requested zoning amendments, another senior housing project submitted proposed text amendments to the R5A Zone to facilitate a somewhat different form of senior housing (all congregate care) on a site on Ocean Avenue. The proposed text amendments to the R5A zone subject of the Planning Board's positive recommendation (Attachment 1; also see details in next section) are merged text amendments from 3 sources:

To facilitate the McAuley Place senior development:

- Adding "multifamily" and "congregate care" to the permitted uses, with associated minimum lot sizes;
- Clarification of the minimum lot area per dwelling for both uses;
- Include a maximum structure height of 55 feet (there was no height limit in the R5A zone previously, as a contract zone was contemplated for implementation);
- Amend the Site Plan ordinance regarding Master Development Plans to include the proposed uses.

To facilitate the Ocean Avenue congregate care development:

- Amend definition of "congregate care";
- Add "congregate care" to the permitted uses and clarify minimum lot sizes;
- Clarification of the minimum lot area per dwelling for this use;
- Confirm a maximum height (for their project 50 feet was suggested).

To address the staff and Planning Board suggestions:

- Remove the requirement that the R5A zone be applied through the contract zone provisions;
- Streamlining the definition of "net land area" to meet current development review practices;
- Removal of unnecessary text and placing the dimensional requirements into a table;
- Simplification of the text as far as possible while ensuring clarity.

The Planning Board's recommended text amendments are listed below along with summary statements that highlight the source and purpose of the proposed text amendments. The full text of the existing ordinance and all amendments (including all strikeouts) are included in Attachment 1.

A. Definitions - Sec. 14-47. Definitions.

1. Congregate Care Definition

Congregate care facility: A ~~planned~~-residential ~~unit~~-development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;

- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Summary: The proposed addition of "dwelling units" and removal of the PRUD requirement allows for greater flexibility of multi-unit development for senior living projects generally. The distinction between living units and dwelling unit is whether there are full kitchen facilities. The Planning Board requested the addition of a definition for Living Unit (see below).

2. New definition for Living Unit:

Living Unit: An independent self-contained dwelling unit that does not include full kitchen facilities.

Summary: A living unit would not have cooking facilities and this is a characteristic of the Ocean Avenue proposed congregate care project which envisions that all meals would be provided centrally.

3. Net Residential Density Definition

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) 1. Stormwater retention areas;~~
~~2. Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) Inaccessible areas, as defined in this section;~~
[Definition of "inaccessible areas" to be removed- see Att 1 for full text of this definition]
- (d) Wetlands, as defined in this section;
- ~~(e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~
- (f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

Summary: The Planning Board has recommended revisions to the zoning ordinance to streamline and clarify the text. For this proposal, the Board supported streamlining the definition and providing more clarity to developers in calculating the residential density for all planned residential unit developments in any zone and applies to other types of residential development in the R-5A zone. The proposed edits eliminate the following deductions contained in the Net Residential Density:

- 1) stormwater retention and detention areas, which are deductions for required site improvements and infrastructure that cannot be determined at the start of a project;
- 2) inaccessible areas, which is a defined term in the code with limited applicability;
- 3) areas encumbered by existing easements, dedications or similar restrictions; and
- 4) a general 20% deduction, which is assumed to be calculation to cover the road infrastructure.

These provisions are difficult to assess and become apparent or determined as a project moves forward. The provisions limit the build out potential for parcels and are not directly related to the site's natural amenities or natural constraints. The removal of these deductions from the overall land area would encourage moderate density housing off the peninsula.

The Board determined that the 20% deduction (which potentially would help retain open space) should be replaced with a specific open space requirement elsewhere in the text. The R5A open space requirement for PRUD'S is stated in the dimensional standards and calls for 200 square feet per dwelling unit and the proposed amendments maintain that requirement and also apply it to multifamily development over 4 dwelling units and congregate care.

B. Permitted Uses - Sec. 14-127. Permitted uses.

There are no changes proposed for the purpose statement. Below is an excerpt of the R-5A zone is below with the proposed revisions to the permitted uses. Please refer to Attachment 1 for the full text of R-5A.

(a) *Residential:*

1. Single, two-family and three-family dwellings.
2. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-130 shall apply with respect to such developments except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. ~~The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.~~ All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions). Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.

6. Multifamily dwellings;

7. Congregate Care.

Summary: The R5A zone currently allows single, two, family and three-family structures. No changes are proposed for the one, two and three family dwellings as a permitted use but the dimensional requirements have been amended to clarify the distinction between a development that includes a 3- family dwellings and multi-family development, because the existing definition of multifamily dwelling is "...containing three or more dwelling units".

The applicant has requested and the Board supported adding multifamily dwellings as a permitted use, in order to build greater flexibility to address the continuum of senior housing. The R5 zone permits multiplex housing, but it does not list multifamily housing, as it is listed in R6 and R7. The multiplex housing is defined in R5 as follows:

Multiplex development with three (3) or more horizontally or vertically attached dwelling units or a series of such attached dwelling units and the construction of at least one (1) building on a parcel of less than two (2) acres, provided that:

- a. The land area requirement for a multiplex shall be six thousand (6,000) square feet of land area per dwelling unit; except that a multiplex with two hundred fifty (250) feet or more of street frontage needs only forty-five hundred (4,500) square feet of land area per dwelling unit;*
- b. No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;*
- c. No open outside stairways or fire escapes above the ground floor shall be constructed;*
- d. No habitable space in a dwelling unit shall be below grade, except basements that are a part of and below aboveground units;*
- e. Such development shall be subject to article V (site plan) of this chapter for site plan review approval and shall conform to the R-5 Design Standards.*

The R5A zone seeks to promote moderate density housing, so including multifamily housing as a permitted use, rather than a multiplex, is proposed as part of the text amendment, along with associated dimensional standards (see below).

The applicant has requested and the Planning Board supported adding "Congregate care" as a permitted residential use in the R5A zone. The city's definition fits the type of facility that the applicant is seeking to construct in the latter phases of the project. The R5A zone does permit intermediate, extended and long-term care facilities under the category of "other permitted uses", but as defined, all of these facilities must include a medical component. In all of the other residential zones, the intermediate, extended and long term care facilities are listed as institutional uses (see table in Section VII C below).

Planned residential unit developments (PRUD) are also permitted along with handicapped family unit, and manufactured housing (Attachment 1 for full text). The R5A zone was created as a floating zone and it is under the PRUD provisions, which stipulates the R5A zone for a PRUD is to be implemented through a conditional or contract zone. A conditional zoning agreement was used for the Graves Hill condominiums at 802 Ocean Avenue and for the Canco Woods assisted living and independent units on Canco Road. The Board is recommending that the conditional zoning requirement for PRUDs be deleted, so that R5A map amendments may be designated for appropriate off-peninsula sites, such as this site and the Ocean Avenue site.

C. Dimensional Standards for R5A

The proposed revisions to the R5A dimensional standards are listed below and comments follow. These have been converted to a table similar to those recently included in the B-2 and R-6 zones (below):

<u>Minimum Lot Size</u>	Residential (Single-, two- and three-family dwellings): 6,000 SF and a maximum lot size up to 2 acres ¹										
	Planned residential unit development (PRUD), multifamily development of 4 or more dwelling units, and Congregate Care: 2 acres gross area										
	Intermediate, extended or long-term care facilities: 1 1/2 acres.										
<u>Min. Lot Area per D.U.</u>	Single-, two- and three-family dwellings: 1,600 SF.										
	Planned residential unit development (PRUD), Congregate Care and Multifamily development of 4 or more dwelling units: 1600 SF of net land area.										
<u>Min. Lot Area per Resident</u>	Minimum land area per intermediate care facility resident: 8,000 SF gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.										
<u>Min. Street Frontage</u>	50 feet.										
<u>Min. Yard Dimensions for Single-, two- and three-family dwellings²</u>	1. Front yard: Principal or accessory structures: 25 feet. 2. Rear yard: a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: 25 feet. b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: 5 feet. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article. 3. Side yard: a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: <table border="0"> <thead> <tr> <th>Height of Structure</th><th>Required Side Yard</th></tr> </thead> <tbody> <tr> <td>1 story</td><td>10 feet</td></tr> <tr> <td>1 1/2 stories</td><td>10 feet</td></tr> <tr> <td>2 stories</td><td>14 feet</td></tr> <tr> <td>2 1/2 stories</td><td>16 feet</td></tr> </tbody> </table> The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards	Height of Structure	Required Side Yard	1 story	10 feet	1 1/2 stories	10 feet	2 stories	14 feet	2 1/2 stories	16 feet
Height of Structure	Required Side Yard										
1 story	10 feet										
1 1/2 stories	10 feet										
2 stories	14 feet										
2 1/2 stories	16 feet										

¹ A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest. Except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.

² Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.

	be less than ten (10) feet. b. Accessory detached structures with ground coverage of one hundred and forty-four(144) square feet or less: 5 feet. 4. Side setback on side streets: Principal or accessory structures: 20 feet.
Maximum Structure Height	Principal residential (single, two and three-family) or attached accessory structure: 35 feet. Accessory detached structure: 18 feet. Principal or attached accessory structure for PRUD, Multifamily development of 4 or more dwelling units, Congregate Care and Intermediate, extended or long-term care facilities: 55 feet.
Max. Lot Coverage	30%
Minimum Lot Width	60 feet
Minimum building setback from external subdivision property lines	PRUD, multifamily development of 4 or more dwelling units, Congregate Care, and Intermediate, extended or long-term care: a. Building length of one hundred (100) feet or less: 25 feet. b. Building length of greater than one hundred (100) feet: 35 feet.
Minimum recreation open space area	PRUD, multifamily development of 4 or more dwelling units, and Congregate Care: 200 SF per dwelling unit or living unit of common area designated on the site for recreation purposes.

Summary:

- **Minimum lot size:** The current residential minimum lot size for a 1, 2 or 3 unit building is 6,000 square feet. The reference to three unit buildings overlaps with the definition of “multifamily” (which includes “...3 or more dwelling units”) so the proposed amendments retain the minimum 6,000 square foot lot, which is calculated on the gross land area and not the net land area. Since the zone is to support moderate density and preserve natural amenities, the proposed text amendments reflect the current R-5 multiplex standards and cap the lot area at 2 acres to ensure that moderate densities are encouraged while simultaneously preserving natural amenities. Thus a lot with less than two acres could be developed based upon the gross land with 1, 2 or 3 unit buildings at the density of 1,600 per unit. Large multifamily developments would be developed under the net residential density provisions. The proposed minimum lot area required for a PRUD is 2 acres, which is consistent with the R5 zone.
- **Minimum lot area per unit:** The current R5A requirement is 1,600 sq ft for dwelling units and PRUDs. Currently only one, two and three family units are allowed as residential units. The current draft proposes that the 1600 square foot per dwelling unit would apply to all residential and congregate care proposals. The residential development of one, two and three unit developments on lots between 6,000 sq ft and two acres, would be calculated on the gross land area. All other proposals would be calculated on the net residential area. The density provisions for intermediate care facilities are the requirements that had been in place for such uses in the R6 zone prior to its recent update, which allows for greater density in the R6 zone. The provisions are proposed to be consistent with the goal for moderate density.
- **Minimum Street Frontage:** The amendments simplify this standard to state 50 feet, which would then apply to all uses.
- **Maximum Structure Height:** The R5A zone does not contain any height limits, which were to be determined during the conditional zone process. The proposed text amendments add in the height requirements of the R5 zone for all structures **except the principle structure** (and attached accessory structures) in PRUD, multifamily development, **Congregate Care** and the institutional uses of

intermediate, extended or long-term care facilities. For these uses a 55 height limit is proposed as this is requested by the applicants for the McAuley Place project. This is a reduction from their initial proposal, which was 60 feet, and is consistent with the R5 permitted height for colleges, universities and trade schools on lots of at least 10 acres.

- **Minimum Building Setback from external property lines:** The minimum setbacks from external property lines are proposed to be consistent with the setbacks applied to PRUD's in the R5A zone.
- **Minimum Recreation Area:** The R5A currently specifies the minimum recreation space required for a PRUD as 200 sq ft per dwelling unit, and this requirement has been extended to multifamily and congregate care development. The amendments propose deleting the text that defined what the recreation space would be in order to simplify the language and allow for more flexibility. This amendment is suggested as being more predictable and proportionate than relying on the lot coverage percentage, which leaves the question of parking out of the equation as lot coverage has been interpreted in the past by the Zoning Administrator to include only structures.

D. Section 14-523 [Site Plan] Required approvals and applicability.

14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate, extended and long term care facilities in the R5A and R6A zones.

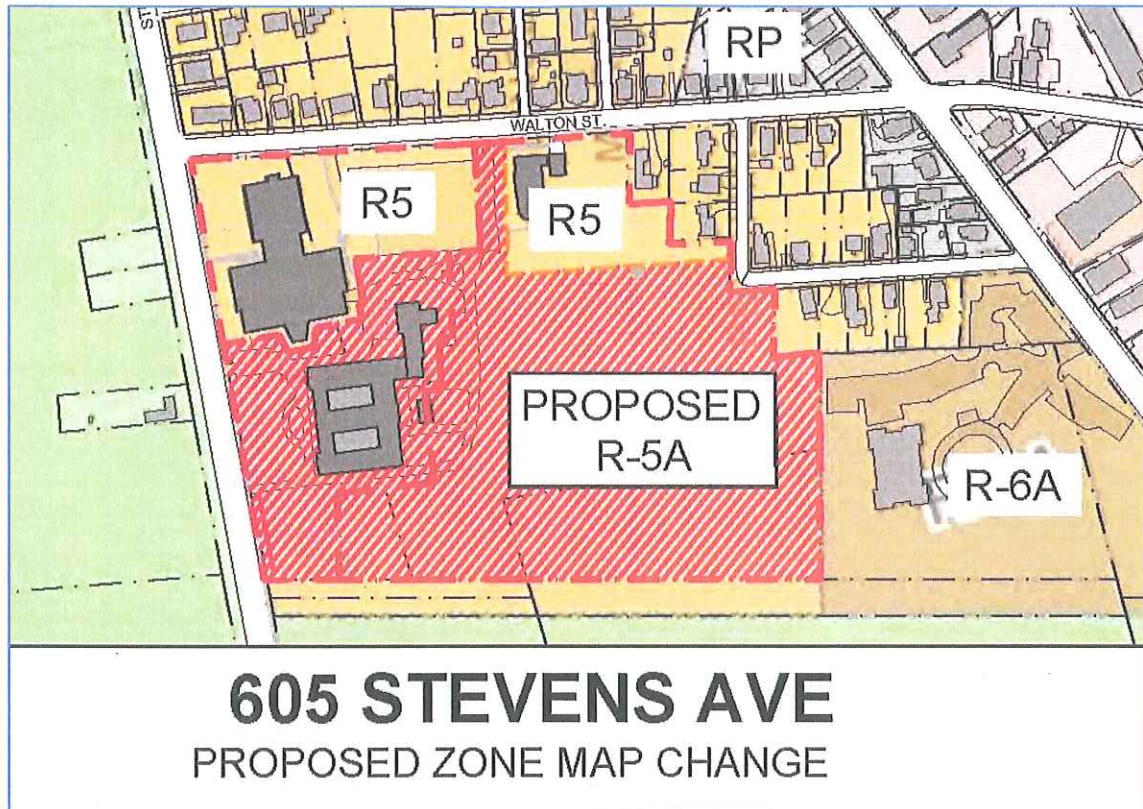
- **Summary:** The Planning Board recommends that an amendment to the Site Plan Ordinance be adopted, which allows the provisions for Master Development Plan to apply to multi-family, congregate care and facilities for intermediate to long-term care in the R5A and R6A zones. A Master Development Plan for the overall site is a mechanism to ensure coordination of access, parking, traffic and pedestrian facilities, stormwater management etc. and to clarify phasing. The current ordinance does not allow this mechanism to be used for residential uses; it only permits the Master Development Plan for institutional uses. While the assisted living (or intermediate care under the City's definition) is an institutional use, the staff felt it was important to clarify and expand the applicability under the Site Plan Ordinance to include the residential uses in R5A and R6A zones.

VIII. REVIEW AND ANALYSIS

A. Map Amendment

The applicant has a Purchase and Sale Agreement for the entire site of approximately 18 acres owned by the Sisters of Mercy at the corner of Stevens Avenue and Walton Street. The proposed Map Amendment from R5 to R5A applies to 13.53 acres within this wider area because the rezoning is not requested for Catherine McAuley High School nor for the St Catherine's residence on Walton Street. The area for the Map Amendment is shown on the plan below (extract from Plan P2).

These two existing buildings would have new lot boundaries so that they are separate from the site that is proposed for a senior housing community (including some affordable senior housing). Both would remain conforming uses within the R5 zone.



B. Rezoning from R5 to R5A

The purpose statement for R5A is as follows:

To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the ability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

The proposed use includes affordable housing and addresses the growing housing needs of senior citizens with a multifamily and congregate care facility. This site addresses the applicable locations for the R5A zone and is surrounded on two sides by large areas of open space that balance the moderate density. The proposed density is 330 dwelling units over 12.26 acres (based on 1600 sq ft of land area per dwelling unit, based on net land area).

Several of the text amendments are based on existing text/dimensions currently in the R5 and R5A zones, as can be seen in the table on the next page. In addition it can be seen that the R5 zone would potentially allow colleges and hospitals on the site at 605 Stevens Avenue, whereas these are not allowed in the R5A zone.

TABLE 1: COMPARING R5 TO R5A AND PROPOSED R5A (excluding setbacks)

	R5 (14-116) (Existing Zoning Text)	R5A (14-126)(Existing Zoning Text)	R5A AS PROPOSED TO BE AMENDED (14-126)
Purpose Statement	To provide appropriate areas of the city for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.	To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.	To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.
Residential permitted uses	• Single and 2-family • Multiplex (= or > 3 attached dwelling units) • PRUD • Handicapped family unit • Single family manu. hsg (with conds)	• Single, 2 & 3 family • PRUD thru Contract Zone • Handicapped family unit • Single family manu. hsg (with conds)	• Single, 2 & 3 family • PRUD (not with contract zone) • Multifamily dwellings • Congregate Care • Handicapped family unit • Single family manu. hsg (with conds)
Other permitted uses	• Parks and rec spaces • Accessory uses • Home occupation • Municipal uses • Special needed living units • Wind energy systems	• Parks and rec spaces • Accessory uses • Home occupation • Municipal uses • Intermediate, extended and long term care facilities • Wind energy systems	• Parks and rec spaces • Accessory uses • Home occupation • Municipal uses • Intermediate, extended & long term care facilities • Wind energy systems
Conditional Uses - Residential	• Sheltered care group homes (subject to conds) • Subdivision of existing structure not in res use as of 1.1.1984 to 3+ dwelling units, du >600 sf and 3000 sf land area/du • Conversion 2-family/multiplex to lodging houses • Alt s/f existing as of 9.3.2008 to have accessory du (subject to conds eg >10 acres)	• Sheltered care group homes (subject to conds)	• Sheltered care group homes (subject to conds)
Conditional Uses - Institutional	• School • Long term & extended care facilities • Intermediate care facility for 13 or more persons • Places of Assembly • Hospital • College, university or trade school (allowed up to 55 feet if meet conds)		

	R5 (14-116) (Existing Zoning Text)	R5A (14-126)(Existing Zoning Text)	R5A AS PROPOSED TO BE AMENDED (14-126)
Conditional Uses - Other	- Off street parking - Utility substations - Day care facilities (subject to conds) - Temp wind anemometers	- Utility substations - Nursery schools and kindergartens - Day care facilities (subject to conds) - Temp wind anemometers - Wind energy systems	- Utility substations - Nursery schools and kindergartens - Day care facilities (subject to conds) - Temp wind anemometers - Wind energy systems
Minimum Lot Size	- Res: 6000 sf - Long term care or Intermediate: 2 acres - Multiplex: 9000 sf - PRUD: 2 acres - School: 30,000 sf - Lodging houses: 9000 sf (no min lot area for uses listed other than res in existence 6.1.1983)	- Res: 6000 sf - PRUD: 3 acres gross - Intermediate, extended or long term care facilities: 1.5 acres	- Res: 6000 sf - PRUD, multifamily over 4 du & Congregate Care: 2 acres gross - Intermediate, extended or long term care facilities: 1.5 acres
Min. Lot Area/ Dwelling Unit	- Multiplex (attached units) with over 250 ft frontage, 4500 sf (otherwise 6000 sf) and no unit less than 600 sf and max of 6 units in a building - PRUD: 3000 sf of net land area and max of 12 units in a building - Special needs living units: 3600 sf with over 250 ft frontage (otherwise 4800 sf) Lodging House: 1000 sf - Other uses: 3000 sf (plus mins/maxs for floor areas)	- Res: 1600 sf - PRUD: 1600 sf of net land area	- Res: 1600 sf - PRUD, multifamily over 4 du & Congregate Care: 1600 sf of net land area - Intermediate Care Facility: 8000 sf gross land area for first 35 residents; 350 sf for each add'l resident
Maximum Lot Coverage	40%	30%	30%
Maximum Height	35 feet	Not listed	- Principal or attached structure for 1, 2 ad 3 family: 35 ft - Accessory detached structure: 18 ft - Principal or attached accessory structure for PRUD, multifamily over 4 du & Congregate Care, intermediate, extended or long-term care facilities: 55 ft
Minimum recreation OS required	For PRUD: 300 sf per dwelling unit (min of 6000 sf)	For PRUD: 200 sf per dwelling unit (min of 6000 sf)	For PRUD, multifamily over 4 du & Congregate Care: 200 sf per dwelling unit

C. Other R5A Locations

The R5 Residential zone is the medium-density residential zone located off Portland's Peninsula. It encompasses portions of East Deering, Deering Center, North Deering, Rosemont, Outer Congress Street, and Riverton. The R5A zone was created as a floating zone and it is applied to a site through a conditional zoning agreement for PRUD development. The R5 zones are found along several of the city's collectors and arterials, such as Washington Avenue, Allen Avenue, outer Congress Street, and near the Forest Avenue corridor, which may offer opportunities for a moderate density infill project.

There are two R5A zones in Portland at present (a Zoning Map will be available at the hearing for reference):

- Graves Hill, 802 Ocean Avenue (Conditional Zone Agreement-C-34): This is the agreement that regulates the site of the proposed Portland Retirement Residence. It appears to be the first agreement to utilize the R5A map designation.
- Canco Woods (Conditional Zone Agreement- C-42): It appears as if Canco Woods was the second conditional rezoning agreement that zoned the land to R5A. This project was developed by Holiday Retirement Corporation, which includes some of the same members of the development team as the current Portland Retirement Residence proposal. That proposal included rezoning a portion of the property to ROS and to R5A to allow for a retirement residence and an assisted living facility. At that time there was a proposed text amendment to allow intermediate, extended and long-term facilities with a minimum of 1.5 acres in the R5A zone.

As noted above, the Board has a pending application before it for a request to rezone of 802 Ocean Avenue, which includes natural amenities features on-site.

D. R5A Implementation

The existing R5A zone was envisaged as an overlay zone in which multifamily development would be implemented via a conditional rezoning agreement associated with a PRUD - Planned Residential Unit Development. A conditional zoning agreement was used for the Graves Hill condominiums at 802 Ocean Avenue and for the Canco Woods assisted living and independent units on Canco Road. Therefore the existing R5A zone did not include many dimensional requirements, including a maximum height.

The proposed text amendment removes the existing requirement for a conditional rezoning agreement that was the implementation mechanism for the original R5A overlay zone, so the zone can be applied as a map amendment. The amendments add multifamily dwellings and congregate care to the PRUD as forms of multifamily development, and clarifies the associated dimensional requirements.

E. Evolution of use definitions in the ordinance

The Planning Board evaluated the current ordinance definitions and associated zone classifications and dimensions for the various related uses. As context, the two tables below show the current ordinance terms and the zones in which they have been included:

Terminology and Definitions

<i>Terms currently in use</i>		<i>Terms currently in the City's Land use ordinance</i>	
Age restricted housing	Residential; non-medical; not licensed	Congregate care	Residential; non-medical; not licensed; support services; 55+
Independent living/congregate Care	Residential; non-medical; not licensed	Congregate care	Residential; non-medical; not licensed; support services; 55+
		Lodging Houses	Building containing 2 or more rooming units (defined without full kitchens or bathrooms) with common kitchen unless meals provided (considered institutional or other)
		Special needs independent living unit	A dwelling unit for persons with special social, physical or mental needs beyond strictly economic needs & provided with required levels of supervision, care and/or counseling services appropriate to their special needs (institutional or other)
Assisted Living	Includes medical services; licensed	Intermediate Care Facility	Includes medical services; licensed (considered institutional)
		Long term or extended care facility	Full time health or convalescent care for 9+ persons; licensed (considered institutional)

Summary of Portland's Ordinance

Use/Zone	R-1		R-2		R-3		R-4		R-5		R-5A		R-6		R-6A	
	P	CU	P	CU	P	CU	P	CU	P	CU	P	CU	P	CU	P	CU
Residential																
Single family	X		X		X		X		X		X		X			
Two-family							X		X		X		X			
Three -family											X					
Multiplex (> 3 du)							X		X							
PRUD									X		X					
Multifamily													X			
Institutional or Other																
L, I & E Care Fac.		X (1 =13)		X (1 =13)		X (1 =13)				X (1 =13)	X			X		
Special Needs Living Unit							X		X							
Conversion to Lodging House										X						
Lodging House															X	

The Director of Planning has provided a note on the Policy of Institutional Uses in Residential Areas (Att. 3) and quoted below in full:

Policy Regarding Institutional Uses in Residence Zones

The issue of institutional uses in residential zones was of great concern in the early 1980's in Portland. At that time we had three hospitals undergoing or considering expansion plans, schools and colleges were taking over residential properties to expand, and the impacts of these and other institutions on their surrounding neighborhoods were the subject of planning and regulation. The scale of the buildings and campus of institutions is generally larger than that of surrounding neighborhood uses. The operating characteristics of institutions typically involve more traffic and at longer hours than typical residential uses, due to employee presence and the comings and goings of students, patients, visitors, trucks with supplies, and for medical facilities, ambulances. The outcome of that effort is embodied in the Comprehensive Plan in the form of the following goal statements (*Portland's Comprehensive Plan; Updated 2005; Page 48*):

Goals

- Institutional uses, where they are to be allowed in residential zones, should be designated conditional uses with review before the Planning Board.
- Any new institutional use should be required to have a lot size of sufficient area to accommodate all activities, including parking and to absorb impacts and growth needs of the institution.
- Reasonable expansion of existing institutions should be accommodated, but effective use of existing lot area should be required.
- For both new development and expansion of existing institutions, the displacement or conversion of existing dwellings should be avoided, and that an institutional development proposal that causes significant residential displacement should be cause for denial of conditional use approval.

In the R-5 zone, the institutional conditional uses include:

- Elementary, middle, and secondary schools
- Long-term and extended care facilities
- Intermediate care facility for thirteen or more persons
- Places of assembly (previously categorized as places of worship, private clubs and fraternal organizations, community halls, etc.)
- Hospitals
- College, university and trade schools

The Board has asked why intermediate, long term and extended care facilities are classified as institutional uses rather than as residential uses. Long term and extended care facilities are essentially the same thing as nursing homes. Intermediate care facilities are similar but do not provide the same level of health and medical services as nursing homes, but do provide a substantial level of care above the level of meals and housekeeping, and might for example include personal care such as bathing, dressing, and medication management. Our definitions are intended to be general enough that as the state licensing categories evolve, and the trends for care facilities evolve, such as the prevalence of “memory homes” for example, our categories will still be relevant. The policy rationale for the zoning treatment as institutions remains the scale of the buildings, the characteristics of the operations which exceed typical residential patterns, and the propensity for expansion and potential displacement of residences. We have updated the regulations over time, such as the reclassification of several uses under the category of places of assembly, and the allowance for multiple scales of this use category, which was motivated in part by the recognition that these uses have highly variable scale and one minimum lot size was not an adequate solution, and in part to ensure that we are in compliance with federal regulations (RILUPA).

This question of policy has arisen in this context of R5A rezoning because the congregate care use appears to have some similarity to the intermediate care use. Congregate care is classified as a residential use and not subject to the institutional conditional use standards, while intermediate care facilities are regulated as institutions. This is where the line is currently drawn. It might be appropriate to shift the ICF use into the residential category, or to more broadly revisit the institutional growth management policies and regulations. We do not recommend that these considerations must necessarily be addressed prior to resolving the two R-5A proposals presently before the Board. Any further planning effort in this regard would need to be weighed against other priorities and scheduled accordingly.

F. Density considerations and traffic

The Planning Board analyzed the maximum build-out (market – rate housing) of the rezoned area based on the existing zone R5 and the two zones under consideration. The following table reflects the recent Conceptual Master Plan ([Plan P3](#)) and submitted Traffic Memos:

Table 2: maximum allowable densities and associated trip generation

	Zone 5 (existing zone)	Zone R5A (existing ordinance)	Zone R5A (proposed amended ordinance)	Zone R6A (existing ordinance)	Proposed Senior Housing as in Plan P3
Maximum density	131 dwelling units	368 dwelling units	334 dwelling units	492 dwelling units	330 dwelling units
Maximum build-out trip generation (total trips per day)	872	2448	2221	3272	1136*
Maximum build-out peak hour (highest in day)	81-88 (see Att L)	228-247 (See Att L)	224	330	127* (revised to 91 if assisted living units were part of the mix see Att L)

**See Tom Errico comments below.*

The applicant’s traffic consultant and Tom Errico have been in discussion regarding the development of the traffic data as described in the letter in [Attachment I](#), with specific Traffic memos submitted as follows:

- April 29th memo summarizing questions of older driver safety and accident data ([Att J](#)).
- May 4th memo including vehicle counts and key intersection capacity analysis ([Att K](#))
- May 6th memo responding to Tom Errico’s questions – summarizing trip generation figures for the maximum build out ([Att L](#)).

Mr Errico has commented as follows ([Attachment 5](#)):

The following represents a status update of my April 9th comments and represent a review of additional information provided by the applicant as it relates to traffic generation and analysis.

- *Maine Traffic Resources conducted a Trip Generation analysis that compared build-out scenarios under existing and proposed zoning. In general I find the methods to be acceptable with the following comments.*
 - *The general conclusion is that a Traffic Movement Permit will be required for the project given traffic generation projections.*
Status: The project will be required to obtain a Traffic Movement Permit (TMP) given trip generation information.
 - *It would be my expectation that the detailed traffic study would extend beyond the site driveways as noted in the Memo. During preliminary discussions the traffic study would likely include an evaluation of roadways and intersections including Steven Avenue/Walton Street, Walton Street/Forest Avenue, and Stevens Avenue/Pleasant Street. The final study area to be evaluated will be determined at the Traffic Movement Permit Scoping meeting.*
Status: The applicant has conducted a preliminary traffic analysis of the above noted intersections during the commuter AM and PM peak hours. The analysis was based upon recent traffic counts and adding traffic from the proposed project. The results of the analysis indicates the above noted intersections are projected to operate at acceptable levels of service following project completion. I would note that the applicant has assumed all signals are optimized and functioning well from a vehicle detection perspective. Additionally, other un-built development traffic was not included in the analysis. My take away from the analysis is that the intersections have adequate capacity to accommodate the additional traffic from the project. With that said, the final analysis will need to look at multimodal conditions, adding traffic from other approved un-built developments, and specifically accounting for existing traffic signal equipment conditions.
 - *The trip generation comparison between the current R5 zoning and the proposed R5A zoning seems reasonable. As noted the change in zoning under a worst-case build-out would add a maximum of 159 trip to and from the site during the PM peak hour. An R5A zone maximum build-out trip level would likely require a more extensive traffic impact study given that it would exceed 200 trips in a hour.*
Status: The applicant has provided an updated trip level comparison. The data indicates that the project is estimated to generate 63 AM peak hour trips and 91 PM peak hour trips. Under the proposed R5A zoning, the applicant has estimated the site could generate 188 AM peak hour trips and 228 PM peak hour trips, assuming 368 general apartments are constructed. The preliminary traffic capacity analysis did not assess the implication of a general apartment construction scenario, but as noted above there appears to be sufficient capacity to handle the noted traffic levels from an intersection capacity perspective.
 - *The estimate for the proposed Senior Housing Build-out is based upon ITE trip generation data that I do not find to be acceptable (the trip rates are based upon small sample sizes). One possible option would be for the applicant to conduct a trip generation survey at similar sites in the area to better predict traffic levels from the proposed project. With that said the general order of magnitude of the trips would not be expected to change significantly. The trip generation numbers will need to be modified during the preparation of the comprehensive traffic study.*
Status: The applicant conducted a survey of traffic at a similar project in Topsham and concluded that the ITE trip generation data reasonably estimates traffic for the project. I concur with the applicants conclusion that the trip generation estimate seems reasonable, although the trip generation methods will need to be reviewed during Site Plan and TMP permitting.
- *The development of the comprehensive traffic study will need to include traffic associated with un-built developments such as Park Danforth. During the traffic scoping meeting we will direct the applicant on*

traffic that needs to be included in their traffic analysis and what infrastructure plans that should be assumed (if any).

Status: This continues to be a valid issue that will need to be addressed during development of the formal traffic impact study.

- A safety analysis will be required as part of the comprehensive traffic study. The analysis will review locations in the area that either are classified as High Crash Locations (HCL) per MaineDOT criteria or have other noted concerns (e.g. pedestrian crashes, high frequency, etc.).

Status: The applicant has not reviewed safety data for the project area. During the traffic study process, we will request a detailed safety analysis at High Crash Locations and may request analysis at non-HCL locations due to other safety factors such as pedestrians crashes, types of collisions, or number of crashes.

- The project will be required to evaluate conditions (parking, access, sidewalks, ADA compliance, crosswalks, etc.) along Stevens Avenue and Walton Street. This review will be performed, at least, along their property frontage).

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

- A detailed pedestrian evaluation will be required as part of the project in terms of site provisions and conditions in the study area. This will include a review of METRO bus stops and how to integrate transit opportunities into the project.

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

- In conjunction with the development of a traffic study that complies with MaineDOT Traffic Movement Permit requirements, the applicant will be required to assess existing and post-development roadway and intersection capacity/congestion conditions and if unacceptable conditions are identified, the applicant would be required to identify mitigation strategies for implementation. In addition, a Safety Analysis will be required that will review existing crash data and if safety deficiencies are identified, a mitigation plan would be required for implementation.

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

The applicant has provided additional information on Senior Drivers, Transportation Programs at Senior Communities, and a proposed Parking Management Plan. My comments are noted below.

- The applicant, through their research, has concluded that at driveways of senior community developments in Maine the data suggests older drivers do not as a group, statistically pose a safety threat. I'm not sure the data is conclusive, and I need to further review, but what I believe to be very important is the implementation of an extensive site Transportation Demand Management Program that will allow occupants of the development to have alternative transportation options. Accordingly, in my professional opinion a very detailed Transportation Demand Management Program will be required for this project.
- The applicant summarized examples of Transportation Programs at other Senior Communities and similar programs will be programmed at the proposed site. As noted above, I believe a comprehensive TDM plan will be required that not only includes on-site transportation options, but also offers incentives for METRO use. The details of the TDM plan will be identified during Site Plan permitting.
- The applicant has noted that they are confident that they can reasonably predict the parking supply for the project such that it does not impact the abutting public streets. I concur with this conclusion and believe that during the Site Plan permitting process the parking lot can be designed to accommodate site specific parking requirements.

G. Height and Massing issues

The Planning Board and members of the public were concerned about the proposed height and associated massing in relationship to the Motherhouse and to the wider neighborhood.

The cover letter from Licht Environmental Design (Attachment I) explains that the submitted Height Study and Massing Studies (Plans P4 and P5) were based on the current proposal of approximately 206 dwellings within the new buildings and meet the proposed R5A dimensional standards. They represent an indicative layout of 4 and 5 story buildings set within open space and playing fields. The overall density (assuming rehabilitation of the entire Motherhouse building in the future) would be at or less than the maximum allowed under the R5A zone as amended.



There are three other graphics in Plan P5 similar to the one above, each from a different perspective. The Board's recommendation took account of this information and noted that the Master Development Plan and Site Plan reviews would address detailed aspects of the building layout.

H. Stormwater and Ecology

A number of neighbors asked questions regarding the impacts of this scale of development, and associated underground parking, on the stormwater and groundwater regime and whether it would impact the ecology of the adjacent Baxter Woods. The applicant has addressed this question in the letter from Licht Environmental Design (Attachment L). The Board considered that these issues could be satisfactorily addressed during the review of the Master Development Plan and associated Site Plans.

IX. COMPREHENSIVE PLAN ANALYSIS

The Planning Board found the proposed text amendments to be consistent with the Comprehensive Plan. Goals and policies which are relevant to the proposed map amendment have been included below:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

Policies

- Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied, including but not limited to the following:
 - ii. Housing units for decreasing household size, such as young professionals, empty nesters, single-parent households, and senior citizens.
 - viii. Housing with a range of services and medical support for the elderly and special needs population, including assisted living, congregate care, group homes and nursing homes;
- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.

- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.

Portland Housing Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity.

Policies

- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.
- Ensure the integrity and economic value of Portland's neighborhoods.

An Addendum to the Planning Board dated May 12, 2015, was referenced in the Board's motion as part of their findings and the entire Addendum is included below and attached as the first attachment to this Report:

ADDENDUM

I. Portland's Comprehensive Plan

Volume I of Portland Comprehensive Plan contains the Community Vision, goals and policies sorted according to the State's 10 goals, and the inventory and analysis of the plan. Volume II contains the following: 1) Implementation Measures and Major Initiatives; 2) Future Land Use Plan; 3) Regional Coordination program; 4) Capital Improvement program; and 5) Appendix.

II. Growth and Rural Areas of Future Land Use Plan

(continued next page)

Under Portland's Future Land Use Plan contained within Volume II, the state's growth management definitions for growth and rural area in 2005 were listed. Following is the excerpt of those definitions from the Comprehensive Plan.

Growth Areas:

The land use plan must designate as "growth area" those land areas within the municipality into which the municipality intends to direct the future growth and development planned to occur during the planning period. Use designation of growth areas is intended to ensure that planned growth and development is directed to areas most suitable for such growth and development and away from areas in which growth and development would be incompatible with the protection of rural resources. Land areas designated as "growth area" must be consistent with the following provisions.

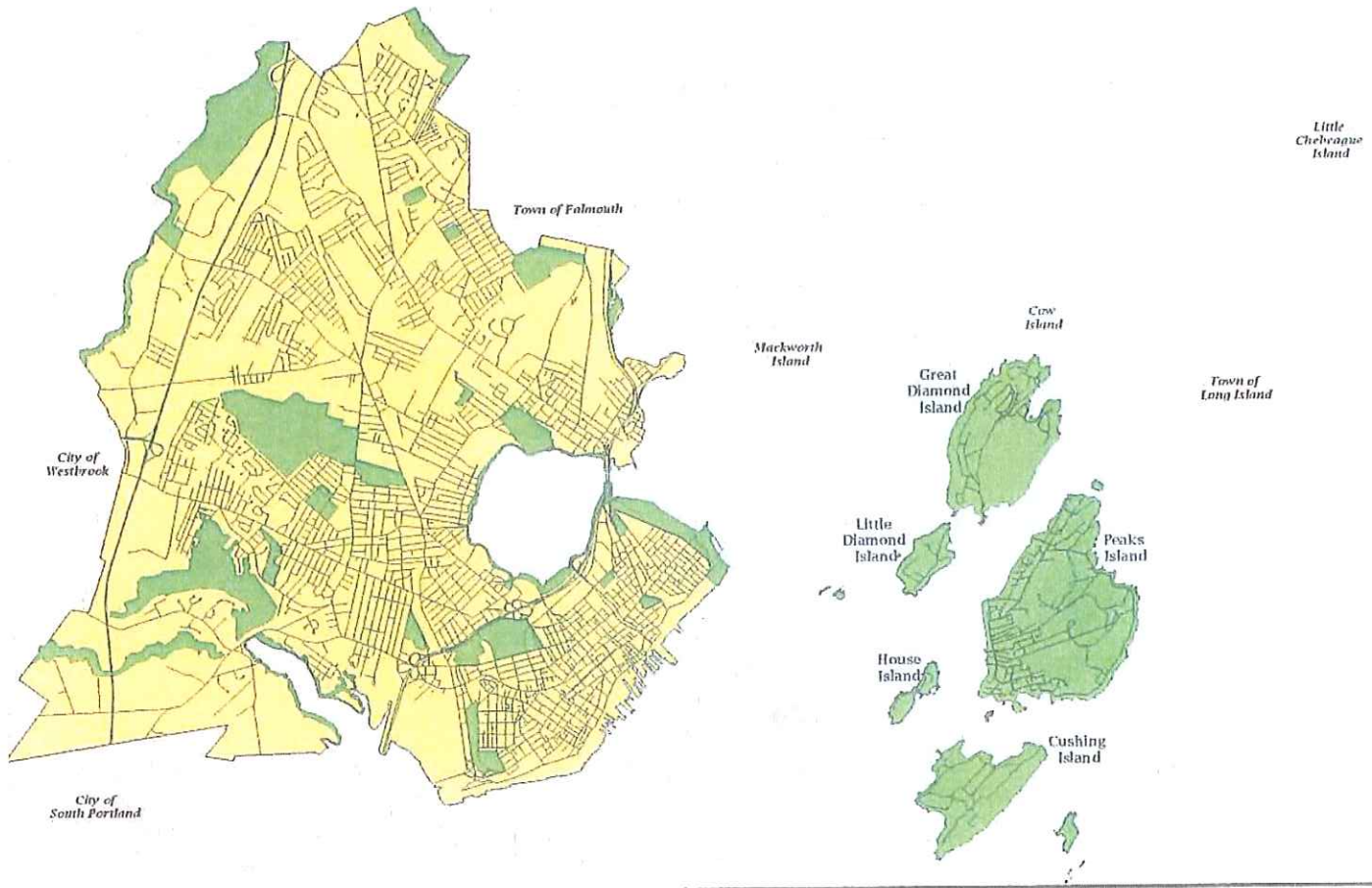
1. Growth areas must be limited to land areas within which public facilities and services are efficiently provided or can be efficiently provided during the planning period.
2. Growth areas must be limited to land areas that are physically suitable for development or redevelopment. (Growth areas may include land areas that are physically unsuitable for development or redevelopment if such areas such as a river, stream, floodplain, small natural hazard area, small lake, or small critical natural resource area run through or are located in the middle of a growth area.)
3. Growth areas must include enough land area suitable for development or redevelopment to accommodate all growth and development planned to occur during the planning period, based on the plan's policies and implementation strategies.
4. Growth areas must be limited to an amount of land area and a configuration that will encourage compact, efficient development patterns and discourage development sprawl and strip development along roads.

Rural Areas:

The land use plan must designate as "rural area" those land areas within the municipality within which the municipality intends to protect agricultural, forest, scenic areas, and other open space land areas from incompatible development. The designation of rural areas is intended to provide for the long-term protection of resource production and open space and scenic lands from incompatible development. Land areas designated as "rural area" must be consistent with the following provisions.

1. Rural areas must include agricultural and forest lands important to the local or regional economy.
2. Rural areas must include land areas consisting of large areas of contiguous open space, farmland, or forestland. They must include land areas in which the predominant pattern of development is intended to consist of very low intensity development broadly dispersed within what would otherwise be a rural landscape. They must also include land areas containing other rural resources that significantly contribute to the municipality's rural character.
3. Rural areas must include land areas in which the municipality can ensure that the level and type of development will be compatible with maintenance of rural character and will not constitute or encourage development sprawl or strip development along roads.
4. Rural areas may include, but may not be limited to, land areas containing natural resources and scenic open spaces that are intended to be protected.
5. Rural areas may not include land areas in which a significant portion of the municipality's future residential development is planned to occur. Nor may they include land areas in which the municipality plans the occurrence of large-scale or widespread residential development that would alter the municipality's rural character.

Portland designated zoning classifications under the categories of growth and rural. In the plan is Table 2, which lists Portland Growth and Rural areas by zone. Residential R-5A is a designated growth zone, along with the residential zones 1 through 7, contract zones, office zones, business zones, industrial zones and waterfront zones. The rural areas include the conservation zones of Resource Protection and ROS (Recreation and Open Space) and all of the Island zones. The map of the growth and rural areas



GROWTH & RURAL AREAS CITY of PORTLAND, MAINE

Growth Areas Rural Areas

is included on the next page. Baxter Woods is listed as a rural area and the McAuley Place site is located within the designated growth area.

III. Future Land Use Plan - R-5A Residential Zone

The full excerpt of the R-5A description under the section of the comprehensive plan titled Growth Area by Zoning Classifications in Portland Residential Zones is as follows:

7. R-5a RESIDENTIAL

Location: There is one R-5a zone along Canco Road that encompasses an elderly housing complex.

Current and Proposed Zoning: All land currently zoned R-5a.

Discussion: To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

The permitted residential uses in the R-5a zone are very similar to those in the R-5 zone, except that multiplexes are not allowed. The other significant difference is that PRUDs may be developed at a higher density. PRUDs in an R-5a zone require a minimum of 3 acres and a minimum net land area of 1,600 square feet per unit compared to 3,000 square feet in the R-5 zone. The R-5a is applied through rezoning when a site and development proposal meets the intent of this zoning classification. This would be a tool for encouraging more housing in specific neighborhood locations as determined through the city's neighborhood based planning program and recommended in Housing: Sustaining Portland's Future. Potential text amendments will be considered to update the residential zones in conformance with the recommendations of Housing: Sustaining Portland's Future.

As stated in the description written in 2005, the R-5A is applied through rezoning within a site and development proposal meets the intent of this zoning classification. The description does not specify that it would be through a contract or conditional rezoning; however, that is included in the PRUD provisions with the R-5A zone. As stated in the above description, the R-5A would a tool for encourage more housing in specific neighborhood locations as recommended through neighborhood plan and as recommended in Housing: Sustaining Portland's Future. It is noted that "potential text amendments will be considered to update the residential zones in conformance with the recommendations of " Housing: Sustaining Portland's Future."

IV. Goals, Policies and Actions of Volume I: Portland Comprehensive Plan

Public comments have been received in opposition to the proposed rezoning and the submission from Peggy McGehee and Lauren Weliver from Perkins/Thompson on behalf of Ms. Bobbi Cope (refer to PC 26). Please refer to the applicant's submission for their analysis.

Below are the goals and policies of the Comprehensive Plan cited in the Planning Board report:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

Policies

- Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied, including but not limited to the following:
 - ii. Housing units for decreasing household size, such as young professionals, empty nesters, single-parent households, and senior citizens.
 - viii. Housing with a range of services and medical support for the elderly and special needs population, including assisted living, congregate care, group homes and nursing homes;
- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.
- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.

Portland Housing Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity.

Policies

- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.
- Ensure the integrity and economic value of Portland's neighborhoods.

In addition, the Planning Division cites the following goals and policies from Housing; Sustaining Portland's Future for the Planning Board's consideration of consistency with the comprehensive plan:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

- Objective 1a. Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied, including but not limited to the following: (cited above with policies)
 - Actions
 - Evaluate and update current zoning to incorporate flexible provisions and incentives to encourage all types of housing. Establish zoning provisions that enhance neighborhoods with compatible and high quality housing developments.
 - Develop financial incentives, partnerships, zoning incentives and non-regulatory options to increase the diversity of Portland's housing stock.
- Objective 1b. A variety of housing choices should be available such that no one should have to spend more than 30% of their income for housing.
 - Maintain Portland's current proportion of subsidized units to its total housing stock. Establish a target of at least 20% of the total number of new housing units will be subsidized for households earning 80% or less of the region's median income.
- Objective 1d. (above from report)
 - Actions
 - Support a variety of affordable rental options for senior citizens.

Maintain, rehabilitate, and restore the existing housing stock as a safe and important physical, economic and architectural resource for the community.

- Objective 2c. Target vacant buildings for maintenance, rehabilitation and reuse.
 - See creative and architecturally compatible reuse of vacant non-residential buildings for housing or for mixed-use projects that incorporate housing by using creative financial incentives and partnerships.

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

- Objective 5a. Encourage growth in Portland that strives for a dynamic balance of the essential elements of the city, such as excellent schools, diverse housing choices, proximity to services and employment, increased public transit usage, expanded economic base, high quality services, and an affordable tax rate.
 - Integrate Portland's housing and economic development incentives to encourage growth and take advantage of the city's capacity to accommodate more people.
- Objective 5b. Maximize development where public infrastructure and amenities, such as schools, parks, public/alternative transportation, sewer lines, and roads exist or may be expanded at minimal costs.
 - Locate new housing along or within walking distance of major transportation corridors to increase use of METRO and encourage alternative modes of transportation.

- Encourage new housing near neighborhood schools and in proximity of public parks and athletic facilities throughout the city.
- Objective 5e. Locate and design housing to reduce impacts on environmentally sensitive areas.
 - Encourage sensitive land development designs and construction methods that minimize impacts on the environment and investigate innovative solutions and collaborative approaches to address stormwater separation and management through natural means.
 - Explore ways to use zoning and other regulatory tools to encourage environmentally friendly development.

V. Findings of Consistency with the Comprehensive Plan

In making a recommendation to the City Council, the Board is asked to determine if the proposed zoning map and text amendments are consistent with the adopted Comprehensive Plan. Consistency means “in basic harmony with” the comprehensive plan as a whole and it does not mean that it is consistent with every provision of the comprehensive plan. It is the City Council as the legislative body that balances all the provision of the comprehensive plan and determines whether or not the proposed amendments are consistent with the plan as a whole. Following is an excerpt from a memo Jennifer Thompson, Associate Corporation Counsel, wrote regarding the conditional rezoning agreement at 184 Auburn Street on August 16, 2013:

The Maine Law Court has interpreted the term consistent to mean that the proposed use/agreement must be “in basic harmony with . . .” the City’s comprehensive plan (the “Plan”) and existing and permitted uses in the original zone . Consistency does not mean, however, that a project has to be the “best possible use” for a site/location. See Vella v. Town of Camden, 677 A.2d 1051, 1053 (Me. 1996) (citing LaBonta, et al. v. City of Waterville, 528 A.2d 1262, 1265); see also City of Old Town v. Dimoulas, 2002 ME 133, ¶ 20, 803 A.2d 1018, 1024.

First, as you are aware, the Plan outlines “a compilation of policy directives and goals” for the development of the City. Among other things, the policies outlined in the Plan address the City’s infrastructure, commercial/business development, transportation resources, industry, and commerce and residential housing. See City of Portland Comprehensive Plan. Since these goals and policies can sometimes compete and/or conflict with one another, it is the Planning Board’s/City Council’s task to balance and accommodate the many goals/policies in a way that advances the City’s overall best interests. See Adelman v. Town of Baldwin et al., 2000 ME 91, ¶ 24, 750 A.2d 577, 585-586 (citations omitted); see also LaBonta, 528 A.2d at 1265. In fact, such a balancing is exactly the type of flexibility that conditional zoning is meant to facilitate.

The recent *Rommel v. City of Portland* case was a decision regarding a conditional zone agreement and not about a map or text amendment, but it does contain a discussion of the principle of what consistency with the comprehensive plan means under Maine law. Basically, a rezoning (either through a text/map amendment or a Conditional Zone Agreement) needs to be in basic harmony with the plan as a whole, and the Council (as the legislative body) is the body that must balance all the provisions of the comprehensive plan (even competing policies) and determine whether or not the proposed amendment is consistent with the plan as a whole and is in the best interests of the City. A conclusion from this case is as follows:

In light of the evidence before the City Council and the various competing goals of the comprehensive plan, the City Council had a rational basis for its conclusion that the CZA was

consistent with the comprehensive plan as a whole, and struck a reasonable balance among the competing goals of the plan. See Nestle, 2009 ME 30, ¶ 23, 967 A.2d 702 (a zoning action may be considered as in basic harmony with the plan so long as the action “strikes a reasonable balance among the municipality’s various zoning goals”); LaBonta, 528 A.2d at 1265.

Danielle West-Chuhta, Corporation Counsel, has stated that the corporation counsel office is available to draft a memo regarding consistency for the City Council package, should the Board desire to have it included with the Board’s recommendation.

End of ADDENDUM

X. PLANNING BOARD RECOMMENDATION

The Planning Board held two workshops and a hearing on the proposed zoning amendments. At the workshops the Board requested/considered the following:

- Information regarding the proposed density and associated traffic analysis for the retirement community as well as for the “maximum build-out” based on market rate housing for the three potential zones under consideration at that time: R3; R5A; and R6A.
- Information on:
 - Why does the map change include a thin section out to Walton Street;
 - How would the lot coverage translate to this site;
 - How would the proposed height and massing relate to the Motherhouse and the neighborhood;
 - Whether senior drivers were a safety concern as suggested by public comments;
 - What was the basis for suggesting that trip generation will be relatively lower for a senior community;
 - Would parking demand be met within the site.

During the review the applicant revised the text amendment to reference a maximum height of 55 feet (previously 60 feet) and the final submittal includes a Height Study and Massing Study (Plans P4 and P5) along with additional traffic data and analysis (Attachments I-L).

On May 12, 2015 the Planning Board held a three hour public hearing on the McAuley Place request for a zone change from R5 to R5A and accompanying text amendments. Many public comments at the hearing raised concerns about traffic, density, massing, potential accidents due to elderly drivers, and impacts on McAuley High School, Baxter Woods and Stevens Avenue. Some comments requested a compromise density (between the existing R5 and proposed R5A), though the applicant had already offered a revised amendment from their original request for an R6A zone which would have had a much higher potential density and a maximum building height of 60 feet.

The Planning Board concluded that the submitted information supported the proposed zoning amendments and that the more detailed public comment concerns could be addressed during the Master Development Plan & Site Plan reviews. The Board also concluded that the map and zoning text amendments were clearly consistent with the Comprehensive Plan policies that identified this site within a growth area and specifically encouraged the type of senior housing envisaged and they did not request a further legal memo on this subject. Some of the Board members specific comments are summarized below.

Board member Sean Dundon noted that this particular developer was working toward retaining the school and Motherhouse, both important for Deering Center- and noted that if not sold to this kind of developer the land could be purchased by UNE and the Motherhouse lost. In his view the zoning amendments were consistent with the Comprehensive Plan in terms of creating housing opportunities. Board member Jack Soley commented that he would consider this a missed opportunity if the Board did not support the zoning. He anticipated a campus-like project with appropriate open space which would be good for the City. Board members Bill Hall and Beth Boepple echoed these comments and considered that the R5A was a good fit in terms of density. All four Board members commented that they were concerned at the levels of parking and potential traffic issues associated with the conceptual layout, but that

they were confident these could be addressed at the Master Development Plan and Site Plan stage and encouraged the neighbors to work with the developer.

On May 12, 2015 the Planning Board voted 4-0 (Eaton recused, and O'Brien and Morrisette absent) to recommend the proposed zoning amendments based on the following motion:

On the basis of plans and materials submitted by the applicant, the policies of the R5 and R5A Residential Zones, Portland's Comprehensive Plan and the Addendum submitted to the Planning Board May 12, 2015, public comment, the information provided in public hearing on May 12, 2015 for the project #2015-022 (605 Stevens Avenue), and/or other findings as follows:

1. Text Amendments to Definitions, R5A Residential Zone and Site Plan

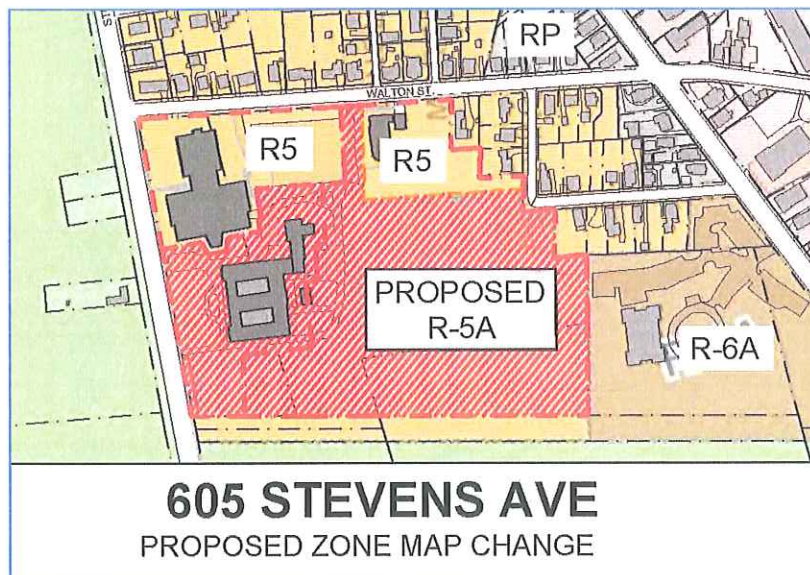
The Planning Board finds that the proposed text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability, as presented in Attachment 1 of this report, are consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning text amendments to Section 14-47 Definitions, Division 6.5 R5A Residential Zone, and Section 14-523 (g) [Site Plan] Required approvals and applicability.

2. Map Amendment from R5 Residential to R5A Residential:

The Planning Board finds that the proposed rezoning for the a property located at 605 Stevens Avenue is consistent with the Comprehensive Plan for the City of Portland; and

Therefore, the Planning Board recommends to the City Council approval of the zoning map amendment for 605 Stevens Avenue from R5 Residential to R5A Residential Zone for the area shown below.



ATTACHMENTS: below

ADDENDUM to the Planning Board Hearing Report re Comprehensive Plan as considered by PB 5.12.2015

Other Report Attachments

1. Proposed Ordinance Text Amendments R5A, Definitions and Site Plan Ordinance
2. Staff summary of public comments at first Workshop when proposal was R6A
3. Alex Jaegerman, Planning Director, Policy Background on Institutional Uses in Residential Zones
4. Deb Andrews Historic Preservation Program Manager, 5.4.15 re Motherhouse
5. Tom Errico, Traffic Engineering Reviewer final comments (zoning) 5.7.2015

Public Comments

- PC 1 B Cope
- PC 2 Comments made at 3.10.12015 PB Workshop (T Church)
- PC 3 K Smith
- PC 4 C MilNeil
- PC 5 E Tarasevich
- PC 6 K Dion
- PC 7 M E Randall
- PC 8 M S Vankevich
- PC 9 Sisters of Mercy
- PC 10 Chair of Board, Catherine McAuley H S (H Osborn)
- PC 11- PC 16 Written copies of comments made at 4.14.2015 PB Workshop
- PC 17 J Girard
- PC 18 K Mahoney
- PC 19 J Thompson
- PC 20 M Mertaugh
- PC 21 J Girard
- PC 22 W Kendrick
- PC 23 K Crabill
- PC 24 B Weed
- PC 25 B Cope
- PC 26 B Cope/Attorneys letter
- PC 27 G Payne
- PC 28 C Ruthenburg
- PC 29 D Webster
- PC 30 J Russo
- PC 31 R Roedner, TM Topsham
- PC 32 N Buttrick
- PC 33 H Bassett, Greater Portland Landmarks
- PC 34 B Cope
- PC 35 C Freund
- PC 36 L Flanagan

Applicant's Submittal

- A. Application
- B. Original cover letter with history of the site
- C. Revised Cover Letter 4.6.2015 incl proposed R5A zone text amendments
- D. P & S Agreement
- E. Chart of Continuum of Care Community
- F. Photos of the Motherhouse
- G. Traffic Study
- H. Neighborhood Meeting (4.2.2015) Notes, Invitation & Certification
- I. Cover letter 5.1.2015 incl 4.24.2015 height info
- J. Additional Traffic information 4.29.2015
- K. Additional traffic information 5.4.2015
- L. Additional Traffic Information 5.6.2015

Plans

- P1. Parcel and Zoning Plans
- P2. Proposed (revised) Zone Map Change
- P3. Conceptual Master Plan (revised 5.5.2015)
- P4. Building Height Study (section) 5.1.2015
- P5. Massing Studies 5.1.2015



Memorandum
Planning and Urban Development Department
Planning Division

To: Stuart O'Brien, Chair and Members of the Portland Planning Board
From: Barbara Barhydt, Development Review Services Manager
Date: May 12, 2015
Re: Addendum to Planning Board Report: R5A Zoning Map and Text Amendments for McAuley Place, 605 Stevens Avenue, Seacoast At Baxter Woods Associates, LLC, Applicant
Project #: 2015-022 CBL: 136 E006001

I. Portland's Comprehensive Plan

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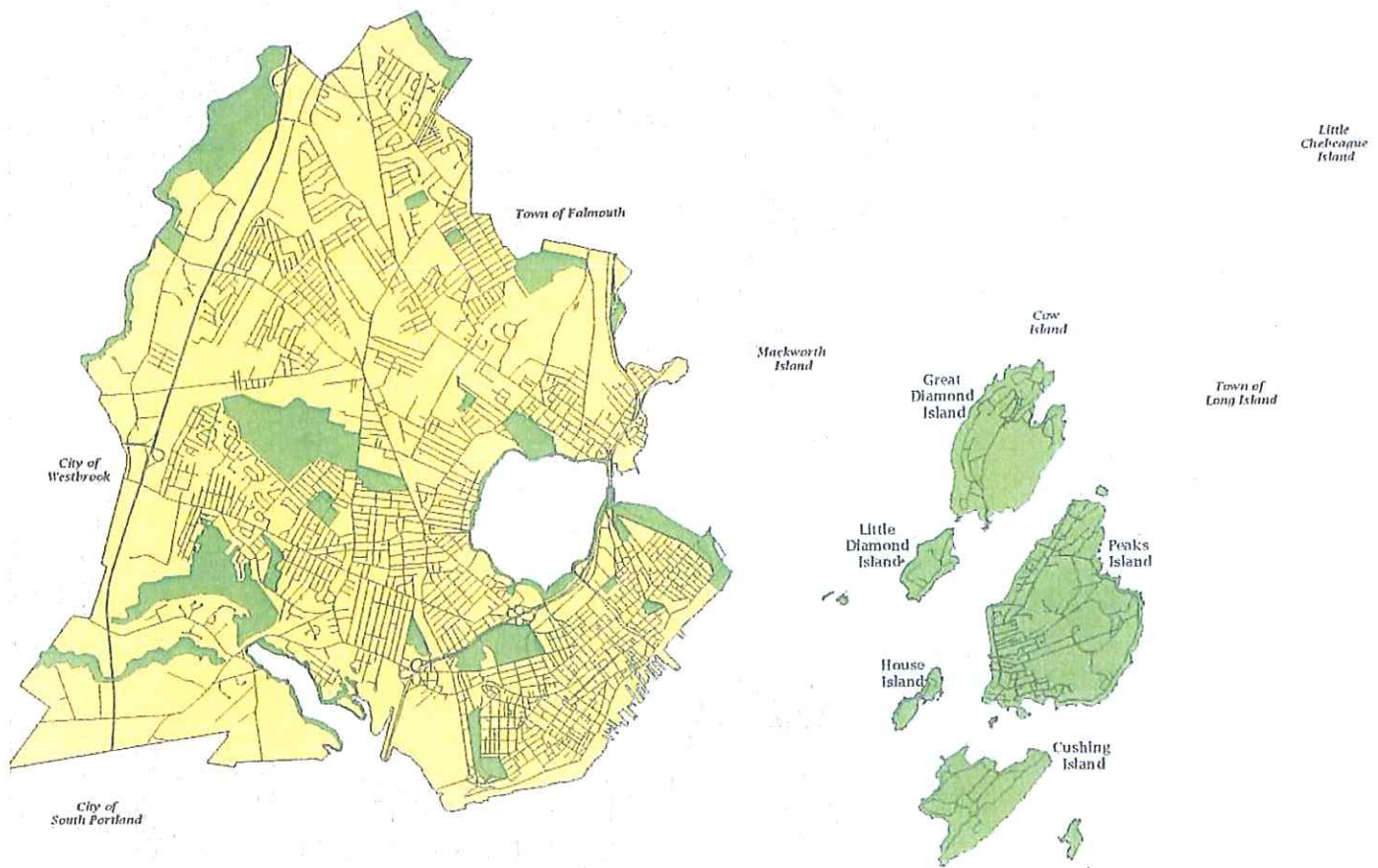
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4. Growth areas must be limited to an amount of land area and a configuration that will encourage compact, efficient development patterns and discourage development sprawl and strip development along roads.

Rural Areas:

The land use plan must designate as "rural area" those land areas within the municipality within which the municipality intends to protect agricultural, forest, scenic areas, and other open space land areas from incompatible development. The designation of rural areas is intended to provide for the long-term protection of resource production and open space and scenic lands from incompatible development. Land areas designated as "rural area" must be consistent with the following provisions.

1. Rural areas must include agricultural and forest lands important to the local or regional economy.
2. Rural areas must include land areas consisting of large areas of contiguous open space, farmland, or forestland. They must include land areas in which the predominant pattern of development is intended to consist of very low intensity development broadly dispersed within what would otherwise be a rural landscape. They must also include land areas containing other rural resources that significantly contribute to the municipality's rural character.
3. Rural areas must include land areas in which the municipality can ensure that the level and type of development will be compatible with maintenance of rural character and will not constitute or encourage development sprawl or strip development along roads.
4. Rural areas may include, but may not be limited to, land areas containing natural resources and scenic open spaces that are intended to be protected.
5. Rural areas may not include land areas in which a significant portion of the municipality's future residential development is planned to occur. Nor may they include land areas in which the municipality plans the occurrence of large-scale or widespread residential development that would alter the municipality's rural character.

Portland designated zoning classifications under the categories of growth and rural. In the plan is Table 2, which lists Portland Growth and Rural areas by zone. Residential R-5A is a designated growth zone, along with the residential zones 1 through 7, contract zones, office zones, business zones, industrial zones and waterfront zones. The rural areas include the conservation zones of Resource Protection and ROS (Recreation and Open Space) and all of the Island zones. The map of the growth and rural areas is included on the next page. Baxter Woods is listed as a rural area and the McAuley Place site is located within the designated growth area.



GROWTH & RURAL AREAS CITY of PORTLAND, MAINE

Growth Areas Rural Areas

III. Future Land Use Plan - R-5A Residential Zone

The full excerpt of the R-5A description under the section of the comprehensive plan titled Growth Area by Zoning Classifications in Portland Residential Zones is as follows:

7. R-5a RESIDENTIAL

Location: There is one R-5a zone along Canco Road that encompasses an elderly housing complex.

Current and Proposed Zoning: All land currently zoned R-5a.

Discussion: To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

The permitted residential uses in the R-5a zone are very similar to those in the R-5 zone, except that multiplexes are not allowed. The other significant difference is that PRUDs may be developed at a higher density. PRUDs in an R-5a zone require a minimum of 3 acres and a minimum net land area of 1,600 square feet per unit compared to 3,000 square feet in the R-5 zone. The R-5a is applied through rezoning when a site and development proposal meets the intent of this zoning classification. This would be a tool for encouraging more housing in specific neighborhood locations as determined through the city's neighborhood based planning program and recommended in Housing: Sustaining Portland's Future. Potential text amendments will be considered to update the residential zones in conformance with the recommendations of Housing: Sustaining Portland's Future.

As stated in the description written in 2005, the R-5A is applied through rezoning within a site and development proposal meets the intent of this zoning classification. The description does not specify that it would be through a contract or conditional rezoning; however, that is included in the PRUD provisions with the R-5A zone. As stated in the above description, the R-5A would a tool for encourage more housing in specific neighborhood locations as recommended through neighborhood plan and as recommended in Housing: Sustaining Portland's Future. It is noted that "potential text amendments will be considered to update the residential zones in conformance with the recommendations of " Housing: Sustaining Portland's Future."

IV. Goals, Policies and Actions of Volume I: Portland Comprehensive Plan

Public comments have been received in opposition to the proposed rezoning and the submission from Peggy McGehee and Lauren Weliver from Perkins/Thompson on behalf of Ms. Bobbi Cope (refer to PC 26). Please refer to the applicant's submission for their analysis.

Below are the goals and policies of the Comprehensive Plan cited in the Planning Board report:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

Policies

- Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied, including but not limited to the following:
 - ii. Housing units for decreasing household size, such as young professionals, empty nesters, single-parent households, and senior citizens.
 - viii. Housing with a range of services and medical support for the elderly and special needs population, including assisted living, congregate care, group homes and nursing homes;
- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland's rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.
- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.

Portland Housing Goal: Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respects neighborhood integrity.

Policies

- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.

- Ensure the integrity and economic value of Portland's neighborhoods.

In addition, the Planning Division cites the following goals and policies from Housing; Sustaining Portland's Future for the Planning Board's consideration of consistency with the comprehensive plan:

Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

- Objective 1a. Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied, including but not limited to the following: (cited above with policies)
 - Actions
 - Evaluate and update current zoning to incorporate flexible provisions and incentives to encourage all types of housing. Establish zoning provisions that enhance neighborhoods with compatible and high quality housing developments.
 - Develop financial incentives, partnerships, zoning incentives and non-regulatory options to increase the diversity of Portland's housing stock.
- Objective 1b. A variety of housing choices should be available such that no one should have to spend more than 30% of their income for housing.
 - Maintain Portland's current proportion of subsidized units to its total housing stock. Establish a target of at least 20% of the total number of new housing units will be subsidized for households earning 80% or less of the region's median income.
- Objective 1d. (above from report)
 - Actions
 - Support a variety of affordable rental options for senior citizens.

Maintain, rehabilitate, and restore the existing housing stock as a safe and important physical, economic and architectural resource for the community.

- Objective 2c. Target vacant buildings for maintenance, rehabilitation and reuse.
 - See creative and architecturally compatible reuse of vacant non-residential buildings for housing or for mixed-use projects that incorporate housing by using creative financial incentives and partnerships.

Portland's Comprehensive Plan encourages a manageable level of growth that will sustain the City as a healthy urban center in which to live and work and to achieve a shared vision for Portland. Portland should encourage sustainable development

patterns and opportunities with the City by promoting efficient land use, conservation of natural resources and easy access to public transportation, services and public amenities.

- Objective 5a. Encourage growth in Portland that strives for a dynamic balance of the essential elements of the city, such as excellent schools, diverse housing choices, proximity to services and employment, increased public transit usage, expanded economic base, high quality services, and an affordable tax rate.
 - Integrate Portland's housing and economic development incentives to encourage growth and take advantage of the city's capacity to accommodate more people.
- Objective 5b. Maximize development where public infrastructure and amenities, such as schools, parks, public/alternative transportation, sewer lines, and roads exist or may be expanded at minimal costs.
 - Locate new housing along or within walking distance of major transportation corridors to increase use of METRO and encourage alternative modes of transportation.
 - Encourage new housing near neighborhood schools and in proximity of public parks and athletic facilities throughout the city.
- Objective 5e. Locate and design housing to reduce impacts on environmentally sensitive areas.
 - Encourage sensitive land development designs and construction methods that minimize impacts on the environment and investigate innovative solutions and collaborative approaches to address stormwater separation and management through natural means.
 - Explore ways to use zoning and other regulatory tools to encourage environmentally friendly development.

V. Findings of Consistency with the Comprehensive Plan

In making a recommendation to the City Council, the Board is asked to determine if the proposed zoning map and text amendments are consistent with the adopted Comprehensive Plan.

Consistency means "in basic harmony with" the comprehensive plan as a whole and it does not mean that it is consistent with every provision of the comprehensive plan. It is the City Council as the legislative body that balances all the provision of the comprehensive plan and determines whether or not the proposed amendments are consistent with the plan as a whole. Following is an excerpt from a memo Jennifer Thompson, Associate Corporation Counsel, wrote regarding the conditional rezoning agreement at 184 Auburn Street on August 16, 2013:

The Maine Law Court has interpreted the term consistent to mean that the proposed use/agreement must be "in basic harmony with . . ." the City's comprehensive plan (the "Plan") and existing and permitted uses in the original zone . Consistency does not mean, however, that a project has to be the "best possible use" for a site/location. See Vella v. Town of Camden, 677 A.2d 1051, 1053 (Me. 1996) (citing LaBonta, et al. v. City of Waterville, 528 A.2d 1262, 1265); see also City of Old Town v. Dimoulas, 2002 ME 133, ¶ 20, 803 A.2d 1018, 1024.

First, as you are aware, the Plan outlines “a compilation of policy directives and goals” for the development of the City. Among other things, the policies outlined in the Plan address the City’s infrastructure, commercial/business development, transportation resources, industry, and commerce and residential housing. See City of Portland Comprehensive Plan. Since these goals and policies can sometimes compete and/or conflict with one another, it is the Planning Board’s/City Council’s task to balance and accommodate the many goals/policies in a way that advances the City’s overall best interests. See Adelman v. Town of Baldwin et al., 2000 ME 91, ¶ 24, 750 A.2d 577, 585-586 (citations omitted); see also LaBonta, 528 A.2d at 1265. In fact, such a balancing is exactly the type of flexibility that conditional zoning is meant to facilitate.

The recent *Rommel v. City of Portland* case was a decision regarding a conditional zone agreement and not about a map or text amendment, but it does contain a discussion of the principle of what consistency with the comprehensive plan means under Maine law. Basically, a rezoning (either through a text/map amendment or a Conditional Zone Agreement) needs to be in basic harmony with the plan as a whole, and the Council (as the legislative body) is the body that must balance all the provisions of the comprehensive plan (even competing policies) and determine whether or not the proposed amendment is consistent with the plan as a whole and is in the best interests of the City. A conclusion from this case is as follows:

In light of the evidence before the City Council and the various competing goals of the comprehensive plan, the City Council had a rational basis for its conclusion that the CZA was consistent with the comprehensive plan as a whole, and struck a reasonable balance among the competing goals of the plan. See Nestle, 2009 ME 30, ¶ 23, 967 A.2d 702 (a zoning action may be considered as in basic harmony with the plan so long as the action “strikes a reasonable balance among the municipality’s various zoning goals”); LaBonta, 528 A.2d at 1265.

Danielle West-Chuhta, Corporation Counsel, has stated that the corporation counsel office is available to draft a memo regarding consistency for the City Council package, should the Board desire to have it included with the Board’s recommendation.

**Proposed Text Amendments Definitions; R5A; Site plan
for May 12, 2015 PB Hearing (v 5.18.2015)
Prepared by Portland Planning Staff**

Sec. 14.47 Definitions.

Congregate care facility: A ~~planned~~-residential ~~unit~~-development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Living Unit: An independent self-contained dwelling unit that does not include full kitchen facilities.

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) 1. Stormwater retention areas;~~
- ~~2. Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) Inaccessible areas, as defined in this section;~~
- (d) Wetlands, as defined in this section;
- ~~(e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~

(f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

~~Inaccessible area:~~

~~(a) Land which is separated from the main portion of the development parcel by means of one (1) or more of the following:~~

- ~~1. Existing easements, rights-of-way or dedicated areas which preclude use in conjunction with the proposed development;~~
- ~~2. Gullies, drainage swales or watercourses, where the land which is separated thereby from the main development parcel is not to be used for the building of units or is not available for active or passive recreation areas; or~~
- ~~3. Areas which are located more than three hundred (300) feet from the nearest proposed dwelling unit.~~

~~(b) Areas which are not to be used for building purposes and are connected to the main portion of the development parcel only by a strip of land which is less than fifty (50) feet wide shall also be deducted as inaccessible areas.~~

DIVISION 6.5. R-5A RESIDENTIAL ZONE

Sec. 14-126. Purpose.

The purpose of the R-5A residential zone is:

- (a) To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

Sec. 14-127. Permitted uses.

The following uses are permitted in the R-5A residential zone:

(a) Residential:

1. Single-, two-and three-family dwellings.

2. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-130 shall apply with respect to such developments except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. ~~The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.~~ All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions). Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If

manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

6. Multifamily dwellings.

7. Congregate care.

(b) *Other:*

- 1. Parks and other active and passive noncommercial recreation spaces;
- 2. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 3. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
- 4. Municipal use;
- 5. Intermediate, extended and long-term care facilities.

6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

Sec. 14-128. Conditional use.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) Residential:

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.
 - b. There shall be no open outside stairways or fire escapes above the ground floor.
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of the sheltered care group home permit.

(b) Other:

1. Utility substations, including water and sewage pumping stations and standpipes, electric power substations, transformer stations and telephone electronic equipment enclosures, and other similar structures, provided that

such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.

2. Nursery schools and kindergartens.
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
 - e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;

- ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
- iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
- iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
- v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
- vi. *Off-street parking*: Off-street parking is required as provided in division 20 (off-street parking) of this article.
- vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
- viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:

- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
- b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and

- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 - e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
 - f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
 - g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
 - h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.
5. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

Sec. 14-129. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

Sec. 14-130. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5A zone shall meet or exceed the following requirements:

<u>Minimum Lot Size</u>	<u>Residential(Single-, two-and three-family dwellings): 6,000 SF and a maximum lot size up to 2 acres¹</u>
	<u>Planned residential unit development (PRUD), multifamily development of 4 or more dwelling units, and Congregate Care: 2 acres gross area</u>
	<u>Intermediate, extended or long-term care facilities: 1 1/2 acres.</u>
<u>Min. Lot Area per D.U.</u>	<u>Single-, two-and three-family dwellings: 1,600 SF. Planned residential unit development (PRUD), Congregate Care and Multifamily development of 4 or more dwelling units: 1600 SF of net land area.².</u>
<u>Min. Lot Area per Resident</u>	<u>Minimum land area per intermediate care facility resident: 8,000 SF gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.</u>
<u>Min. Street Frontage</u>	<u>50 feet.</u>
<u>Min. Yard Dimensions for Single-, two-and three-family dwellings²</u>	<u>1.Front yard: Principal or accessory structures: 25 feet.</u> <u>2.Rear yard:</u> <u>a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: 25 feet.</u> <u>b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: 5 feet.</u> <u>Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.</u> <u>(continued)</u>

¹ A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest. Except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.

² Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.

	3. <u>Side yard:</u> a. <u>Principal or accessory structures with ground coverage greater than one hundred (100) square feet:</u> <table> <tr> <th><u>Height of Structure</u></th><th><u>Required Side Yard</u></th></tr> <tr> <td>1 story</td><td>10 feet</td></tr> <tr> <td>1 1/2 stories</td><td>10 feet</td></tr> <tr> <td>2 stories</td><td>14 feet</td></tr> <tr> <td>2 1/2 stories</td><td>16 feet</td></tr> </table> The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet. b. <u>Accessory detached structures with ground coverage of one hundred and forty-four(144) square feet or less: 5 feet.</u> 4. <u>Side setback on side streets: Principal or accessory structures: 20 feet.</u>	<u>Height of Structure</u>	<u>Required Side Yard</u>	1 story	10 feet	1 1/2 stories	10 feet	2 stories	14 feet	2 1/2 stories	16 feet
<u>Height of Structure</u>	<u>Required Side Yard</u>										
1 story	10 feet										
1 1/2 stories	10 feet										
2 stories	14 feet										
2 1/2 stories	16 feet										
<u>Maximum Structure Height</u>	Principal residential (single, two and three-family) or attached accessory structure: 35 feet. Accessory detached structure: 18 feet. Principal or attached accessory structure for PRUD, Multifamily development of 4 or more dwelling units, Congregate Care and Intermediate, extended or long-term care facilities: 55 feet.										
<u>Max. Lot Coverage</u>	30%										
<u>Minimum Lot Width</u>	60 feet										
<u>Minimum building setback from external subdivision property lines</u>	PRUD, multifamily development of 4 or more dwelling units, Congregate Care, and Intermediate, extended or long-term care: a. <u>Building length of one hundred (100) feet or less: 25 feet.</u> b. <u>Building length of greater than one hundred (100) feet: 35 feet.</u>										
<u>Minimum recreation open space area</u>	PRUD, multifamily development of 4 or more dwelling units, and Congregate Care: 200 SF per dwelling unit or living unit of common area designated on the site for recreation purposes.										

~~(a) Minimum lot size:~~

~~Residential: Six thousand (6,000) square feet, except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest.~~

~~Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.~~

~~Intermediate, extended or long-term care facilities: One and one-half (1 1/2) acres.~~

~~(b) Minimum lot area per dwelling: Sixteen hundred (1,600) square feet.~~

~~Planned residential unit development (PRUD): Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.~~

~~(c) Minimum street frontage: Fifty (50) feet. PRUD development: Fifty (50) feet.~~

~~(d) Minimum yard dimensions:~~

~~(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)~~

~~1. Front yard:~~

~~Principal or accessory structures: Twenty-five (25) feet.~~

~~2. Rear yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.~~

~~b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~3. Side yard:~~

- ~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~Height of Structure Required Side Yard~~

~~1 story 10 feet~~

~~1 1/2 stories 10 feet~~

~~2 stories 14 feet~~

~~2 1/2 stories 16 feet~~

~~The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.~~

- ~~b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~4. Side setback on side streets:~~

~~Principal or accessory structures: Twenty (20) feet.~~

~~(c) Maximum lot coverage: Thirty (30) percent of lot area.~~

~~(f) Minimum lot width: Sixty (60) feet.~~

~~Minimum building setback from external subdivision property lines (PRUD):~~

- ~~a. Building length of one hundred (100) feet or less: Twenty-five (25) feet.~~

- ~~b. Building length of greater than one hundred (100) feet: Thirty-five (35) feet.~~

~~(g) Minimum recreation open space area: Two hundred (200) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a~~

~~contiguous area of six thousand (6,000) square feet, with a minimum dimension of fifty (50) feet, shall be provided and shall include one (1) or more of the uses set forth in section 14-526 (d) 9. and the planned residential unit development standards in the City of Portland Design Manual, but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.~~

Sec. 14-131. Other requirements.

[Other requirements are as follows:]

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

- 1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
- 2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate, extended and long term care facilities in the R5A and R6A zones.

Table 3: Summary of First PB Workshop Public Comments

[as included in April Workshop Memo; comments relate to original proposal for rezoning to R6A]

Subject	Issues (Based on Public Comments PB Workshop 3.10.2015)	Comment (also see submitted letter in Att C)
Traffic Generation	Impact on traffic congestion in area What is the cumulative impact of Park Danforth, Deering pavilion and this development (on top of the impacts of an expanding UNE) Holly and Pershing already used as cut-through so worse? Adequacy of Stevens and Walton Street, given width (?33ft), winter snow, speed bumps, parking and high traffic levels at times Need to account for visitors, employees, delivery/service vehicles, & emergency vehicles generated by the development Impact on pedestrian safety, given 7 schools in vicinity and related street activity Interaction with construction traffic for Park Danforth and as ongoing on this site Increase in noise eg emergency vehicles Will public transport be extended/increased? Park Danforth and Deering Pavilion recently zoned R6A but they have access to Forest (arterial); this project only has access via Stevens and Walton. What is DOT classification of Stevens and how does this relate to the purpose statements for rezone options?	The applicant will be expected (through the Traffic Movement Permit (TMP) process described above under VII D) to provide further data and analysis to address all of these points. The TMP would be conducted as part of the Master Development Plan review. Both vehicle and pedestrian safety issues are included in the TMP review process, and the applicant would need to provide mitigation where the proposed development resulted in deficiencies. Under the Federal Street Classification system Stevens Avenue is classified as a "Minor Arterial" and Forest Avenue is classified a "Principal Arterial". Arterials are key transport and transit corridors and appropriate for the proposed zone, but the impact of any project would need to be assessed in detail.
Parking Requirements	Parking is already an issue just with the existing school and UNE How meet requirements of new dev (at least 350 new dwellings) as well as providing 100 spaces (as existing and all used) for Catherine McAuley HS Access should allow for queuing of cars (waiting to park) on site and not in street Will there be a parking garage or shuttle to an off-site parking lot? Is underground really feasible? Surface parking detracts from ped/environment and from community feel of the area	Staff consider that there is enough land available to address these concerns at the Master Development Plan stage. The applicant has indicated that some parking will be under the buildings, but this issue can not be fully evaluated until more detailed proposals are submitted.
Density	An increase from the current medium density and low intensity character would be detrimental Ensure compatibility with scale, character of area Impact on value of surrounding homes Impact on integrity of historic building and surrounding environment	The revised Conceptual Phasing Plan (Plan P4) is now under consideration and the applicant will be presenting additional information at the PB workshop on April 14, 2015 to address some of these questions. The proposals are currently suggested to be at 60 feet in height, and the letter in Att C (page 3) indicates that this is below the roof line of the Mother House.
Height	Increase resulting from the development compared to existing? 65 feet is too high and has a visual impact and not in character with area Need to preserve the (wonderful) views of the dome landmark	
Future Of McAuley HS	What are the plans for the school ie the application appears to be inconsistent Changes have negative effects on HS Feasibility for school to remain and grow at that site	The revised area for rezoning excludes the High School.
Future Of McAuley Fields	What will be preserved? Displacement of users of these fields – impacts on other playing fields Other playing fields already at capacity and not enough in Portland now (already borrowing from each other)	The letter in Att. C (page 3) addresses this question: during the first 2 phases the field would not be altered, but in Phases 3 and 4 the fields are reduced and relocated.
Ground water	A house on Pershing was affected by constant groundwater flooding after playing fields were constructed, so concern about impact of the development on groundwater displacement	This point is noted and there is also an area of wetland at that corner of the site. Further information regarding the wetland and groundwater will be required as part of the next review, and the City's ordinance requires that the project avoid water-management impacts to neighbors.
What If Lot Sold Off To Another Developer	Whats to stop a new owner building 2 to 3 times as many dwellings as proposed? This developer sold Highland Green in Topsham	The analysis of the "maximum build-out" under the zone options was requested by the Planning Board in order to consider this possibility. See section VII B of this Memorandum.
Affordable Housing Component	Income level restrictions? Affordable housing ordinance requirements How affordable to local people? What does the applicant mean by "market rate"?	This information has not been submitted in a letter, but the Mother House developer has provided this information at the first Workshop and at the Neighborhood Meeting on April 2, 2015. This is not a zoning issue.

Policy Regarding Institutional Uses in Residence Zones

The issue of institutional uses in residential zones was of great concern in the early 1980's in Portland. At that time we had three hospitals undergoing or considering expansion plans, schools and colleges were taking over residential properties to expand, and the impacts of these and other institutions on their surrounding neighborhoods were the subject of planning and regulation. The scale of the buildings and campus of institutions is generally larger than that of surrounding neighborhood uses. The operating characteristics of institutions typically involve more traffic and at longer hours than typical residential uses, due to employee presence and the comings and goings of students, patients, visitors, trucks with supplies, and for medical facilities, ambulances. The outcome of that effort is embodied in the Comprehensive Plan in the form of the following goal statements (*Portland's Comprehensive Plan; Updated 2005; Page 48*):

Goals

- Institutional uses, where they are to be allowed in residential zones, should be designated conditional uses with review before the Planning Board.
- Any new institutional use should be required to have a lot size of sufficient area to accommodate all activities, including parking and to absorb impacts and growth needs of the institution.
- Reasonable expansion of existing institutions should be accommodated, but effective use of existing lot area should be required.
- For both new development and expansion of existing institutions, the displacement or conversion of existing dwellings should be avoided, and that an institutional development proposal that causes significant residential displacement should be cause for denial of conditional use approval.

In the R-5 zone, the institutional conditional uses include:

- Elementary, middle, and secondary schools
- Long-term and extended care facilities
- Intermediate care facility for thirteen or more persons
- Places of assembly (previously categorized as places of worship, private clubs and fraternal organizations, community halls, etc.)
- Hospitals
- College, university and trade schools

The Board has asked why intermediate, long term and extended care facilities are classified as institutional uses rather than as residential uses. Long term and extended care facilities are

essentially the same thing as nursing homes. Intermediate care facilities are similar but do not provide the same level of health and medical services as nursing homes, but do provide a substantial level of care above the level of meals and housekeeping, and might for example include personal care such as bathing, dressing, and medication management. Please see Attachment X for the zoning definitions of these institutional uses. Our definitions are intended to be general enough that as the state licensing categories evolve, and the trends for care facilities evolve, such as the prevalence of “memory homes” for example, our categories will still be relevant. The policy rationale for the zoning treatment as institutions remains the scale of the buildings, the characteristics of the operations which exceed typical residential patterns, and the propensity for expansion and potential displacement of residences. We have updated the regulations over time, such as the reclassification of several uses under the category of places of assembly, and the allowance for multiple scales of this use category, which was motivated in part by the recognition that these uses have highly variable scale and one minimum lot size was not an adequate solution, and in part to ensure that we are in compliance with federal regulations (RILUPA).

This question of policy has arisen in this context of R-5A rezoning because the congregate care use appears to have some similarity to the intermediate care use. Congregate care is classified as a residential use and not subject to the institutional conditional use standards, while intermediate care facilities are regulated as institutions. This is where the line is currently drawn. It might be appropriate to shift the ICF use into the residential category, or to more broadly revisit the institutional growth management policies and regulations. We do not recommend that these considerations must necessarily be addressed prior to resolving the two R-5A proposals presently before the Board. Any further planning effort in this regard would need to be weighed against other priorities and scheduled accordingly.

From: Deb Andrews
To: Barbara Barhydt; Jean Fraser
CC: Alex Jaegerman; Jeff Levine
Date: 5/4/2015 11:01 AM
Subject: 605 Stevens Avenue

At Jean's request, I called Mike Johnson at the Maine Historic Preservation Commission to inquire whether any proposed new construction on the Mother House property would be subject to review by MHPC and the National Park Service were the developer to seek tax credits for rehabilitation of the Mother House itself. (Mike reviews tax credit applications at the Commission.) Mike confirmed that any new construction would be subject to review for its visual impact on and general compatibility with the Mother House.

I don't think that compatibility with the surrounding residential development would be a consideration in the review. For example, if the scale of the new development is compatible with that of the Mother House, that would be sufficient. Whether or not it is out of scale with the surrounding residential development would probably not be a relevant consideration.

Deb

From: Tom Errico <thomas.errico@tylin.com>
To: Jean Fraser <JF@portlandmaine.gov>
CC: David Margolis-Pineo <DMP@portlandmaine.gov>, Jeremiah Bartlett <JBartle...>
Date: 5/7/2015 12:38 PM
Subject: Baxter Place - Updated Traffic Comments

Jean - The following represents a status update of my April 9th comments and represent a review of additional information provided by the applicant as it relates to traffic generation and analysis.

* Maine Traffic Resources conducted a Trip Generation analysis that compared build-out scenarios under existing and proposed zoning. In general I find the methods to be acceptable with the following comments.

- o The general conclusion is that a Traffic Movement Permit will be required for the project given traffic generation projections.

Status: The project will be required to obtain a Traffic Movement Permit (TMP) given trip generation information.

- o It would be my expectation that the detailed traffic study would extend beyond the site driveways as noted in the Memo. During preliminary discussions the traffic study would likely include an evaluation of roadways and intersections including Steven Avenue/Walton Street, Walton Street/Forest Avenue, and Stevens Avenue/Pleasant Street. The final study area to be evaluated will be determined at the Traffic Movement Permit Scoping meeting.

Status: The applicant has conducted a preliminary traffic analysis of the above noted intersections during the commuter AM and PM peak hours. The analysis was based upon recent traffic counts and adding traffic from the proposed project. The results of the analysis indicates the above noted intersections are projected to operate at acceptable levels of service following project completion. I would note that the applicant has assumed all signals are optimized and functioning well from a vehicle detection perspective. Additionally, other un-built development traffic was not included in the analysis. My take away from the analysis is that the intersections have adequate capacity to accommodate the additional traffic from the project. With that said, the final analysis will need to look at multimodal conditions, adding traffic from other approved un-built developments, and specifically accounting for existing traffic signal equipment conditions.

- o The trip generation comparison between the current R5 zoning and the proposed R5A zoning seems reasonable. As noted the change in zoning under a worst-case build-out would add a maximum of 159 trip to and from the site during the PM peak hour. An R5A zone maximum build-out trip level would likely require a more extensive traffic impact study given that it would exceed 200 trips in a hour.

Status: The applicant has provided an updated trip level comparison. The data indicates that the project is estimated to generate 63 AM peak hour trips and 91 PM peak hour trips. Under the proposed R5A zoning, the applicant has estimated the site could generate 188 AM peak hour trips and 228 PM peak hour trips, assuming 368 general apartments are constructed. The preliminary traffic capacity analysis did not assess the implication of a general apartment construction scenario, but as noted above there appears to be sufficient capacity to handle the noted traffic levels from an intersection capacity perspective.

- o The estimate for the proposed Senior Housing Build-out is based upon ITE trip generation data that I do not find to be acceptable (the trip rates are based upon small sample sizes). One possible option would be for the applicant to conduct a trip generation survey at similar sites in the area to better predict traffic levels from the proposed project. With that said the general order of magnitude of the trips would not be expected to change significantly. The trip generation numbers will need to be modified during the preparation of the comprehensive traffic study.

Status: The applicant conducted a survey of traffic at a similar project in Topsham and concluded that the ITE trip generation data reasonably estimates traffic for the project. I concur with the applicants conclusion that the trip generation estimate seems reasonable, although the trip generation methods will need to be reviewed during Site Plan and TMP permitting.

* The development of the comprehensive traffic study will need to include traffic associated with un-built developments such as Park Danforth. During the traffic scoping meeting we will direct the applicant on traffic that needs to be included in their traffic analysis and what infrastructure plans that should be assumed (if any).

Status: This continues to be a valid issue that will need to be addressed during development of the formal traffic impact study.

* A safety analysis will be required as part of the comprehensive traffic study. The analysis will review locations in the area that either are classified as High Crash Locations (HCL) per MaineDOT criteria or have other noted concerns (e.g. pedestrian crashes, high frequency, etc.).

Status: The applicant has not reviewed safety data for the project area. During the traffic study process, we will request a detailed safety analysis at High Crash Locations and may request analysis at non-HCL locations due to other safety factors such as pedestrians crashes, types of collisions, or number of crashes.

* The project will be required to evaluate conditions (parking, access, sidewalks, ADA compliance, crosswalks, etc.) along Stevens Avenue and Walton Street. This review will be performed, at least, along their property frontage).

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

* A detailed pedestrian evaluation will be required as part of the project in terms of site provisions and conditions in the study area. This will include a review of METRO bus stops and how to integrate transit opportunities into the project.

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

* In conjunction with the development of a traffic study that complies with MaineDOT Traffic Movement Permit requirements, the applicant will be required to assess existing and post -development roadway and intersection capacity/congestion conditions and if unacceptable conditions are identified, the applicant would be required to identify mitigation strategies for implementation. In addition, a Safety Analysis will be required that will review existing crash data and if safety deficiencies are identified, a mitigation plan would be required for implementation.

Status: This continues to be valid and will be required in conjunction with Site Plan permitting.

The applicant has provided additional information on Senior Drivers, Transportation Programs at Senior Communities, and a proposed Parking Management Plan. My comments are noted below.

* The applicant, through their research, has concluded that at driveways of senior community developments in Maine the data suggests older drivers do not as a group, statistically pose a safety threat. I'm not sure the data is conclusive, and I need to further review, but what I believe to be very important is the implementation of an extensive site Transportation Demand Management Program that will allow occupants of the development to have alternative transportation options. Accordingly, in my professional opinion a very detailed Transportation Demand Management Program will be required for this project.

* The applicant summarized examples of Transportation Programs at other Senior Communities and similar programs will be programmed at the proposed site. As noted above, I believe a comprehensive TDM plan will be required that not only includes on-site transportation options, but also offers incentives for METRO use. The details of the TDM plan will be identified during Site Plan permitting.

* The applicant has noted that they are confident that they can reasonably predict the parking supply for the project such that it does not impact the abutting public streets. I concur with this conclusion and believe that during the Site Plan permitting process the parking lot can be designed to accommodate site specific parking requirements.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE
Senior Associate
Traffic Engineering Director
[T.Y. Lin International] T.Y. Lin International
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"One Vision, One Company"

Please consider the environment before printing.

Re: Convent 605 Stevens Avenue Application for Zone Change and Text Amendments
Submitted at the Planning Board Workshop on 3/10/2015
by Bobbi Cope, email: bcope@maine.rr.com, phone: 207.415.5833

My name is Bobbi Cope. I live on Concord Street in Portland.

I support keeping the R5 zone for the 6 0 5 Stevens Avenue property.

According to the proposed change from R5 to R6A, Walton Street, which is just thirty-three feet wide, would become the major access road for this project. Other streets in would also be impacted, such as Pershing, Holly, Elmwood, Waverly, Poland, Hartley, Clinton, New, Leland and Crosby, some of which are even narrower than thirty-three feet.

The increased density from R5 to R6A would generate further congestion on Walton Street, Stevens Avenue, Forest Avenue, the streets I just mentioned, as well as the entire neighborhood area extending from Woodford Street, near Deering High School, all the way past UNE to Morrill's Corner.

There are seven schools, with thousands of pedestrians: small children, their parents, college students, and many others at various and multiple times throughout the day, when the speed limit is down to 15 miles per hour. All traffic must stop, or pause, or wait, while people are crossing, getting in and

out of parked cars, or running between cars. There are families on bicycles to avoid. This creates heavy, slow congestion and is already dangerous, even with the speed bumps that were installed several years ago. Rush hours further compound the problem.

A zone change from R5 to R6A that would increase housing density would add traffic from not only additional residents, but also their visitors, employees, service vehicles, ambulances, fire trucks and delivery trucks. Safety for all, must always come first, including the many residents who live in this area now.

Those who currently live in this part of the city choose to live here because of its unique character, medium-density and low-intensity lifestyle as specified in the Land Use Ordinance definition of the R5 zone. This neighborhood area is valued for the serenity it provides as it has for over a century.

R5 currently allows a maximum building height of thirty-five feet. A zoning change to R6A allows a significant increase to a maximum of sixty-five feet. This would increase the permitted building height by 86%, nearly double! From a visual perspective, this would overshadow the dome of the Mother

House, which has been an enduring landmark in the City for 106 years. It is so notable that during World War II, the dome had to be painted to conceal its visibility.

The existing density of the McAuley campus has been compatible with the scale, character and long-standing residential quality of the surrounding neighborhoods.

According to Staff Comments (VI.C.) the proposed zoning change could allow for more than a thousand housing units and forever change a part of Portland that has been treasured for over a hundred years.

If this zone change is allowed, or even considered, what purpose do zoning restrictions and standards serve? The proposal is an extreme deviation from the current R5 zone by a large margin.

I support keeping the R5 zone for the 6 0 5 Stevens Avenue property.

Thank you.

Compilation of Questions for City of Portland and McAuley Place Development
605 Stevens Avenue, Portland ME

Zone-type R6A was created for the Park Danforth in 2014 and has not been used by the City of Portland before. In light of the recently approved zone change and expansion plans for both the Park Danforth and Deering Pavillion, how does the City plan to account for increased traffic in the area on Forest Avenue? Many people use Forest Ave to get to work from neighboring towns, and the increase in staff alone will add a lot of traffic to the area. If McAuley Place were to also obtain Zone R-6A designation, would roads be widened or new parking lots added to account for the increase in cars? Would public transportation be extended to give the increased elderly population more access to the city? How can the City anticipate the effects of adding three newly designated zones in an already congested area?

The addition of McAuley Place would introduce a lot of older drivers to Stevens Ave and Walton Street. Especially during the rush hours in the morning and afternoon, this would add a lot of cars to the road while children are walking to school. I am concerned that adding elderly drivers with poorer eyesight and slower reaction time to Stevens Ave could be dangerous in an area with 7 schools and lots of residential housing. How would McAuley Place and the City of Portland reduce the danger to the neighborhood's children?

The Park Danforth and Deering Pavillion, the only other 2 R6-A zones in the City of Portland, both have access to Forest Avenue, a major road according to the City of Portland's designations. The new proposed development has no access point on a major road - it abuts Walton Street and Stevens Avenue, designated as a "Collector Street" and a "Minor Route" respectively according to the City of Portland Transportation Map. It also touches on Holly and Pershing Streets, which are even smaller than Walton Street. With no major road access and parking plans deemed as "conceptual" for the moment, how do the plans for McAuley Place qualify as R6-A eligible, given that the City of Portland's Code of Ordinances Section 14-135 lists the zone as "appropriate in areas that are along major public transportation routes"?

The area around McAuley on Stevens Ave and Walton Street is surrounded by other schools and is restricted to 15 mph at least twice a day. During rush hour, as people from around Portland enter the city for work and drop their children off at school, what measures will the City take to improve traffic congestion, especially with the construction slow-downs caused by the expansion of the Park Danforth and Deering Pavillion?

Where would the residents and staff of McAuley place park? On the Conceptual Master Plan, shown on page 3 of the Zoning Map and Text Amendments application for McAuley Place, there is no designated parking zone for any of the proposed living communities. Catherine McAuley High School has 100 parking spaces and uses all of them for its students and staff. In order to provide parking for the residents of 350 housing units plus staff and visitors, will the plan eventually include a parking garage or a shuttle service from an external parking location? There doesn't seem to be enough area for 350 housing units plus the required parking as outlined in the City Code of Ordinances Division 20, Section 14-332.

While the current plan seeks to build 350 housing units, an R6-A designation would allow for 2-3 times as many units. Although Wasileski does not intend to build that many, what prevents him from selling to someone who will? He recently sold The Highlands retirement community to an out-of-state investment firm, and I'm concerned that out-of-state developers who have never

lived in the Portland area would be unable to anticipate how expansion would affect the neighborhood.

Walton Street is very narrow and can't be widened due to houses on either side. The traffic is only one lane with parking on one side and some areas with sidewalks on only one side. Will the infrastructure of Walton Street and Stevens Avenue, which already has reduced speeds due to school zones and speed tables, support the addition of so many cars to the road?

How will emergency vehicles reach McAuley Place quickly for the resident seniors? Because of increased traffic and school zones, it would be very difficult for ambulances and firetrucks to reach seniors quickly in times of emergency using Stevens Avenue. Because McAuley Place has no direct route to Forest Ave, it would also take longer to reach the hospital. How can the plans be accommodated to keep so many elderly people safe while also keeping children safe as they cross roads and walk home from school?

How will the addition of McAuley Place and affordable housing affect the local economy? Seniors with little disposable income will not be able to stimulate local businesses and will increase traffic congestion along Stevens Avenue, making it more difficult to find parking near local restaurants and shops.

The gold dome of St. Joseph's Convent (the Mother House) is a landmark of the neighborhood and community, and an R6A designation would allow for construction of housing up to the height of the dome. The dome can currently be viewed from all around the City and is historically important, as it was blackened during World War II to prevent easy recognition of features in Portland. How can the project be changed so that the history and character of the neighborhood is preserved?

The City of Portland's Code of Ordinances lists appropriate areas for the R-6A zone in Division 7, Section 14-135 as " areas along major public transportation routes, near service areas, and in redevelopment (underutilized) zones or infill areas". I would like to know how the proposed plans for McAuley Place fit the R-6A designation, seeing as they would be built over current sports fields, which are needed for the children of Portland and are rented out for tournaments and games. The fields are also used for physical education classes at Catherine McAuley High School and are surrounded by a walking path for the Sisters of Mercy living in St. Catherine's. The fields are not underutilized, and aside from having access to a single city bus line, Steven's Avenue is not a major public transportation route. Would the definition of R-6A have to be changed to accommodate the plans the McAuley Place, or would additional public transportation be added to account for the increased population density?

Several years ago, the City of Portland refused to allow a Dunkin Donuts in Deering Center in part based on traffic concerns. Would similar concerns apply now, due to the massive increase of traffic on Steven's Ave and Forest Ave because of the Park Danforth, Deering Pavillion, and potential McAuley Place construction projects? Can the current infrastructure of Portland handle that much traffic, especially in the winter with snow removal and ice concerns?

How does the construction of McAuley Place plan to work with McAuley High School? In the Request for Zoning Amendment sent to the Planning and Urban Development Department Planning Division on March 4th of this year, the developer notes that "Catherine McAuley High School and the senior community will prosper together for decades to come." However, statements further in that document note that the high school will exist only "for the immediate

future" and the Conceptual Master Plan map designates the building of McAuley High School as "future commercial mixed use". Could you please clarify how McAuley Place anticipates working with the well-established community of Catherine McAuley High School, whose students each volunteer in the community for a minimum of 20 hours per year, in the next 10 years?

In the developer's application for a zone change and zone text amendments, it is written "While the r5 zone in purpose would satisfy the proposed repurposing and redevelopment of the current campus, the specific dimensional and land use provisions of zoning district r6a more specifically suit the proposed plan. For this reason, the applicant is requesting both a text and map amendment to change the current McAuley campus from r5 to r6a." If the designation of R5 would satisfy the requirements of the current plan, why pursue a zone change allowing for more than double the current plan? This provision would leave room for expansion, as R-6A designation allows for more than double the housing density of R5, and if Wasileski were to sell McAuley Place as he sold The Highlands in Topsham, what would prevent a new developer from expanding? How could the City of Portland handle the added strain to the area's traffic and emergency services?

[Based on questions drafted by Taylor Church]

From: Kenneth Smith <kensmithjr11@yahoo.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 4/6/2015 9:56 PM
Subject: Re: Revised zoning amendment application: McAuley Place, 605 Stevens Ave.

Thank you for this information. I have a question and comment. Many of the concerns of a zoning change center around increased traffic and parking. Thus I hope that this project and zoning will be considered in context with already existing UNE parking and traffic problems. A significant traffic study should be conducted in advance of zoning changes rather than after, which I understand is the more typical process.

Drive down Stevens, particularly from 8-10 am before considering or allowing increased density and traffic.

Ken Smith

122 Mabel, Portland 04103

Sent from Yahoo Mail on Android

From: "Jean Fraser" <JF@portlandmaine.gov>
 Date: Mon, Apr 6, 2015 at 3:29 PM
 Subject: Revised zoning amendment application: McAuley Place, 605 Steven

Hello

This is the first "group" e-mail to neighbors and others who have requested to get updates from the Planning Division on this project.

I have just received a revised submission from the applicant and have attached it- it is quite a large file and you may not be able to download it. I am also arranging for it to be placed (later today) on the City's website at:

<http://www.portlandmaine.gov/AgendaCenter/ViewFile/Agenda/04142015-1088?html=true>

There will be a Planning Board Workshop on Tuesday, April 14th at 4:30pm (see Legal Ad attached) where the Board will consider this revised request for a text amendment (of a smaller area) to R5A (rather than R6A), with associated text amendments. The Board would not be taking a final decision at this meeting; the vote on a recommendation to the City Council (re just the zoning) would take place at a hearing that has not yet been scheduled.

Public comments will be taken at the PB Workshop, and written comments can be sent to me via e-mail (in addition to or instead of speaking at the meeting).

If I get written comments before the end of Thursday (4.9.2015) they will be included in the "packet" that goes to the Planning Board on Friday; otherwise I circulate public comments at the Workshop meeting on April 14th.

The entire "packet", that includes all submissions and the staff cover Memo, will be available on the City's website (same address as above) on Friday (4.10.2015) afternoon.

Please do not hesitate to contact me with any questions.

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: Christian MilNeil <c.neal.milneil@gmail.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 4/13/2015 12:04 PM
Subject: 605 Stevens Avenue

Hi Jean,

I'm supportive of the proposed R-5A changes and the developer's proposal for 605 Stevens Avenue, which would provide much-needed senior housing in a walkable, in-town neighborhood with good access to two transit lines.

I do have some questions, though, about the project's provisions for street connectivity, and whether the R-5A amendments ought to have more clarity about preserving and extending the street grid of surrounding neighborhoods.

In this case, the proposed project would benefit from a new east-to-west public street connection to Forest Avenue, as well as extensions of Pershing and/or Holly Streets to preserve the neighborhood's pattern of residential blocks. A new east-west street connection could provide some auto traffic relief to Walton and Stevens, and would also provide a more direct and more pleasant route for pedestrians to Forest Avenue's bus line and other destinations.

Such a connection would be dependent on permission from the Deering Pavilion property, but that shouldn't prevent the city from reserving a public right-of-way now (especially because any future redevelopment in the R6A zone will only increase the utility of a new connection).

In general, I worry that these recent projects (not just this one, but also the proposed senior housing on Ocean Avenue and pretty much any off-peninsula project of the past 20 years) are designed and built as – essentially – higher-density versions of suburban cul-de-sacs. They're mostly cut off from the well-connected streets of surrounding neighborhoods, they're not inviting to foot traffic, and as a result they dump out lots of traffic on arterial streets, which upsets everyone.

Besides that, if the R-5A zone (and the R-6A zone) are intended for moderate-density development consistent with the pattern of surrounding neighborhoods, then perhaps the new zones should require consistency of the street pattern by requiring a higher degree of street connectivity?

Some specific questions:

- Sec. 14-498(g) requires a "maximum block length of eight hundred (800) feet, measured from the nearest street lines of intersecting streets." The frontage of the developers' property along Stevens Avenue looks like it's slightly less than 800', so one reading might be that these developers won't be held to this standard. However, if they don't provide a public right-of-way, we'll end up with a block length along Stevens of 1500' (Walton to Percival), contrary to the intentions of the ordinance. Which interpretation does the city favor?
- Second, on the city's tax maps there seems to be a narrow strip of land south of the developers' property, adjacent to but not part of Baxter Woods park. Is this city-owned, or reserved for a future street?

- New developments off the peninsula have done a lousy job of preserving the city's well-loved pattern of residential blocks away from the arterials – contrary to the intents of the standards in 14-498 and to the detriment of walkability and traffic congestion surrounding these new projects. Are there any ideas in circulation at City Hall for improving the street connectivity standards? (zoning updates like R6A and R5A seem like ideal places to roll out new standards on a limited basis).

If you'd please share these questions and concerns with the planning board, I would appreciate it. Thanks!

From: Elizabeth Tarasevich <emtarasev@gmail.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 4/13/2015 4:01 PM
Subject: Fwd: Catholic properties near Baxter woods and McAuley playing fields as well as the other buildings (nun's residence)etc.

Hello s. Fraser,

could you please add the following comment to the file before the planning board workshop tomorrow on the St. Joseph Convent at 605 Stevens Ave in Deering Center - Norm is planning on being there to read the statement, but has asked me to send it in advance.

Thank you very much,

Elizabeth Tarasevich

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

From: Norm Buttrick <nbuttri1@maine.rr.com>
Date: Mon, Mar 23, 2015 at 3:35 PM
Subject: Catholic properties near Baxter woods and McAuley playing fields as well as the other buildings (nun's residence)etc.
To: Elizabeth Tarasevich <emtarasev@gmail.com>
Cc: jtarling@portlandmaine.gov

Elizabeth, I am unable to attend the DCNA meeting tonight at the Church about the plans near Baxter Woods, but you may read my comments below and use my name as against it for the following reasons.

First of all, the proposed plan to build high rise condo's or apartments (several of them to accomodate over 650 persons and probably more), will destroy Baxter's philosophy for the nature preserve and bird sanctuary. The new buildings and parking lots surrounding it will be distructive to the environment, as the woods have provided since it was donated to the people of Portland to enjoy as the last of the original woods in the City (some Hemlocks and white oaks are between 150 and 200 years old).

There are many historic sites in the 30 acres of Baxter Woods that could be threaten with the influx of so many people into the grounds, not to mention the natural habitat of animals and plant life as I noted above paragraph.

The srreets in this part of the Deering neighborhood and Woodfords area would become more jamed up with traffic than it already is now. Parking with New England College students parking on Stevens Ave. and the side streets would be more of a problem to contend with.

Finally, I would hate to see McAuley High School forced to move from its location along with its playing fields next to Baxter Woods. The woods are a wonderful educational benefit to the students as they have had an archaeological field school this past year, as well as science classess to the woods with Jeff Tarling (City Arborist) to prevent the destruction of trees from diseases.

Norm Buttrick, Deering Center concerned neighbor

From: Kathy Dion <katherine.dion@yahoo.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 4/13/2015 5:48 PM
Subject: Re: 605 Steven Ave.

Jean,

Thank you for the response. Regarding storm water retention and ground water issues at what point might this be addressed. Is there an engineering proposal/meeting that the public will be able to attend?

Thank you,
 Kathy Dion

Sent from my iPad

> On Apr 13, 2015, at 1:05 PM, Jean Fraser <JF@portlandmaine.gov> wrote:

>

> Kathy

>

> The R5A currently says that the area per dwelling is based on "gross" land area, which would include all of the land in the lot. So staff thought it would be better to have the density based on "net area" but the current definition includes items that are not defined (see annotation in red below) and we wanted to have it clearer and limited to the area after areas that are not buildable (eg slopes and water areas) taken out.

>

> This is a staff recommendation and is for discussion with the Planning Board. It may be that one or two of these have a good basis for being retained or retained but revised.

>

> Thank you

> Jean

>

>

>

>

> Jean Fraser, Planner

> City of Portland

> 874 8728

> >>> Kathy Dion <katherine.dion@yahoo.com> 4/11/2015 9:54 PM >>>

> Jean,

>

> In this section multiple lines are crossed out. Why is this and what does this mean?

> 1. Stormwater retention areas; since this was written such areas have changed in nature and are often underground; also they are unknown until a detailed layout is developed and engineering details worked out so difficult to subtract.

>

> 2. Stormwater detention areas, unless improved for passive or active recreational use; same comment.

>

> (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.

>

> (c) Inaccessible areas, as defined in this section; Again, this includes some items that are difficult to quantify.

>

> (d) Wetlands, as defined in this section;

> (e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection

with the proposed development. Most easements would allow development over them; few don't. but maybe keep this in if better defined???

>

> (f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

>

> (g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition. this is an estimate of what might be needed for roads and access, but for some projects this would be very high compared to what they would include and for others it would be low. Since any project needs to have access it seemed odd to subtract out this rough number.

>

>

> Kathy Dion

>

>

> Sent from my iPad

>

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From: mary ellen randall <mary.e.randall@gmail.com>
To: <JF@portlandmaine.gov>
Date: 4/13/2015 9:54 PM
Subject: Convent workshop

I would like to register my opposition to the proposed zone change to R6A. Not only is increased traffic, with its accompanying congestion, noise, and pollution a concern, but the high density nature of the zoning is not appropriate in this primarily residential neighborhood. Deering is a walkable neighborhood despite ongoing problems with traffic.

Property values will drop as the neighborhood is altered to a density greater than even much of the peninsula. Massive buildings of the proposed height and density will also have a negative impact on the abutting Baxter Woods, currently a sheltered, quiet wood that formerly was even more protected before trees were cut for the Macauley ballfields. Moreover, the plans are for very large, flat-roofed institutional buildings, not those shown in the developers' renderings of brick 3-story buildings.

I support maintaining the A5 zoning, converting the large convent building to housing, and preserving the character of the Deering neighborhood. In addition, I would like to see some requirement to add park-like green space to offset the additional CO2 and congestion caused by the development.

Thank you.
Mary Ellen Randall
Concord Street

4.14.2015

Dear Ms Frasier

could you please submit this tonight to the planners for 605 Stevens Ave

thank you Mary skerritt Vankevich

The citizens of Portland have long enjoyed the benefits of Portland's Parks. Baxter Blvd., the Eastern Promenade, and the Western Promenade. Deering Oaks was envisioned and built by park designer Olmstead and Mayor Baxter more than 100 years ago. Baxter Woods park was intended to link the city's ring of Parks to the outer regions of development .

Today I am deeply concerned by the dense proposed development of the convent property. The old growth trees, lawn, and playing fields protect and support the trees of Baxter Woods. In 1908 the convent was opened on 20 acres that was bought from Mayor Baxter and had been part of the original Baxter Woods .The Sisters of Mercy maintained these acres of forest for more than 100 years. Seven acres were sold to build Deering Pavilion and recently more forest was cut to build badly needed sports fields. The Pavilion property was recently rezoned to 6A and more trees will be eliminated from this historic stand. I believe the convent's 15-plus acres support and protect the green space that is important to the long-term survival of Baxter's Woods. Portland is known as the Forest City.

Seacoast Development's desire is to pave, excavate, and build on an overwhelming percentage of the property.

Currently the set-back for buildings is 25 feet .The root protective area for the trees extends into this area thus excavation and heavy equipment will directly harm root systems. Excavation nearby will

disrupt natural water flow. Forever, the trees will be subject to pavement runoff and the loss of the protective filtering of the supporting green space.

I am asking the set-back be at minimum increased to 50 feet with a requirement to leave the 50 foot protective path free of pavement and keep it planted with trees to support and protect the woodland reserve. Additionally, I would request that the remaining stand of wooded area be forever maintained and protected and that no road to join the Deering Pavilion property with the seacoast development .I know that access to the woods is great marketing for seacoast development but the scope of this complex is not fitting with the neighborhood or Park.

Thank you

May Skerritt Vankevich



Ms. Barbara Barhydt
Development Review Manager
Planning and Urban Development Department
Planning Division
389 Congress Street, 4th Floor
Portland, Maine 04101

Re: 605 Stevens Avenue

Dear Ms. Barhydt,

We are writing to confirm our support for John Wasileski and his team in the development of the Sisters of Mercy property on Stevens Avenue. As the City knows, the future of this property has been under discussion for over a decade and we have considered a number of alternatives. In deciding to proceed with John and his team, we have found a developer who respects the historical significance of our Motherhouse and has a plan to preserve it for future generations. That was, and remains very important to us. We also appreciate the commitment that John and his team have made to preserve the St. Catherine's Residence for our retired Sisters. Additionally, we appreciate his efforts to work with Catherine McAuley High School. We think that the proposed development is a creative and responsible reuse of the property. It is sensitive to the past and present uses, while at the same time addressing a need in the community for low-income housing and assisted living facilities. We urge the Board to approve the project.

Sincerely,

Jacqueline Marie Kieslich, RSM
President
Sisters of Mercy Northeast Community

CC: John Wasileski
Jean Fraser, Planner

from JW 4.14.2015
part of bus pres.



CATHERINE MCAULEY High School

Dear McAuley Community:

I want to update you on some very positive developments for the future of McAuley.

As you know, the school sits on real estate owned by the Sisters of Mercy, and they have agreed to sell the property to Sea Coast Management Company, with a likely sale closing date in 2016. The School administration and Board have been actively evaluating and planning for the school's future needs and options. As part of that effort, Sea Coast and McAuley have been meeting to discuss our shared plans and visions.

McAuley's objective has consistently been to provide the best physical environment for the young women of the school – to support their development into Women of Mercy, well-educated, self-disciplined, enriched by diversity, able to lead and willing to serve others. We want a location that serves the students and the Portland community, of which the school is a committed member.

We are happy to announce several important directional developments that will help us to achieve our goals.

First, we are very pleased to communicate that, with respect to the 5-year lease we currently have with the Sisters of Mercy, Sea Coast has confirmed that it "will be glad to extend the lease [with the School] to remain in effect as long as the School is in good standing with [its terms]", beginning with a 25-year term and renewable beyond that time. Sea Coast has promised the School that the terms will remain similarly favorable to what we currently have with the Sisters of Mercy. They have made this commitment to a long-term lease happily and "without reservation". This generous commitment allows McAuley to choose to stay in its current Stevens Avenue location, which has served us well for forty-five years. This site is the best choice for the School and continues our presence as an important part of the Portland Community. We can now plan and invest and build our future here, knowing that Sea Coast is committed to our long-term presence and success.

Second, we are also delighted that Sea Coast is willing to preserve permanent athletic field space for practices and possibly for games, depending on how their projects take shape. This provides us with the ability to support our young women's physical development and athletic team experience. Sea Coast's project timeline shows that there will be no impact on the current fields until at least the 2017-2018 school year and even then, the impact will be gradual as construction begins.

Finally, we are thrilled that the shared future of McAuley and Sea Coast offers many exciting and rewarding possibilities. Sea Coast wants to work with the school on everything from intergenerational programs to joint development for scholarships and capital needs. They are committed to having McAuley grow and thrive for decades alongside their new senior community, maximizing the benefits to both communities during our long-term future together.

We are excited about our new future and all the benefits this new direction can bring to our unique and irreplaceable McAuley. If you have any questions, please contact Kathryn Barr, our Head of School or me.

Heidi S. Osborn
Chair, Board of Trustees

Brenda Sowns

PC 11

Have any studies been conducted on how building so close to Baxter Woods would affect the ecosystem?

I understand there are springs on the property and in the woods. How will the displaced ground water and storm water affect the trees?

What are the specific ecological and geological impacts?

Brenda Downs.

According to the City of Portland Fire Department records, in the past five years, between Park Danforth and Deering Pavilion, there was an average of 385 calls per year, more than 7 per week. Currently there are 359 units between those two properties. This project would double those calls and with all build outs could easily triple. Park Danforth's planned expansion is for 139 additional units. Ironically, following the meeting at the Motherhouse on Holy Thursday, there was a fire truck coming up Walton Street. Where did it come from? Which fire station typically responds to calls in this neighborhood? The closest fire station is on Stevens Avenue, 1 mile away. The next nearest is on Ocean Avenue, 1 ½ miles away. This highlights multiple risks. Is the elderly person in need of emergency services in jeopardy?

In the planner's Memorandum, under INTRODUCTION, 5th paragraph, it says:
 "The applicant has a Purchase and Sale Agreement for the wider area (including the High School and St. Catherine's Residence on Walton Street). The last sentence of the same paragraph says St. Catherine's is being retained by the owners. Which owners? Please clarify.

On the applicant's Density Computations Chart/Attachment B, St. Catherine's will stay in R5 what is the possible future density of that parcel?

If the school becomes available to the applicant for development, will that also stay in R5 or apply for R5A? What is the possible future density build out of that parcel?

If the remaining ball fields become available, what is the possible future build out of that acreage?

Ann Rodenick
 970 Washington Ave.
 Portland

I agree with Katie Mahoney, Mary
 Veronema, Mrs. Freund, Bobbi Cape.

My understanding of a 55+ or senior living community is that one of the attractions is that they are not in the vicinity of a lot of kids. With a school on the same property, it seems inconsistent with the concept.

Ann Reardon
970 Washington Ave.
Portland

Bobbi Lopez
Concord Street

The numerous and excessive text amendments raise many concerns. Among them:

The staff's recommendations of redefining the net area are extreme.

The staff suggests that the subtraction of 20% is arbitrary. Their suggestion that it be removed is in itself arbitrary.

The staff's suggestion to remove the open space requirement is arbitrary.

Stevens Avenue is not a major arterial. It has been defined for pedestrians, bicyclists, and has been subjected to traffic calming implementation.

The state storm water regulations need to be considered.

This zone change will impact other projects.

The volume (3 ½ pages) of revisions of the text to R5A is egregious and irresponsible. Many of these suggestions are in direct conflict with the Comprehensive Plan and the legality is questionable. Why is the City acquiescing to the developers? The Planning Board and Planning Staff owe it to the citizens of the City of Portland to thoroughly review and analyze these proposed text amendments and not allow such a carte blanche proposal to be approved.

Bobbi Cope Concord Street

Density Comparisons

Convent Property	Convent Property	Convent Property	Estimated Typical Density	802 Ocean Avenue Portland Proposal	The Highlands at Topsham
R5A	R6A	R5	R5		
369 units (279+90)	492 units (372+120)	131 units (99+32)	128 units	150 units proposed	350 units
13.5 acres	13.5 acres	13.5 acres	13.5 acres	18 acres	75 acres
=27.34units Per acre	=36.45 units Per acre	=9.71 units Per acre	=9.49 units Per acre	=8.34 units Per acre	=4.67 units Per acre

Several
The traffic dangers cannot be overemphasized. There are at ~~least a dozen~~ people in this room who had personal relationships with two children who were killed by vehicles on Stevens Avenue. Joey St. Pierre, age 15, was killed in front of St. Joseph's School on December 15, 1965. Dolores Boutin, age 8, was killed at Stevens and Hartley on May 8, 1973.

This conversation is not just about a drawing on a piece of paper, density calculation charts, and numbers on balance sheets. It's also about the real lives of real people, some of whom have generations of history here. It's about an established, valued culture that may be intangible, but is highly valuable not just to these citizens, but to the social complexity and fabric of the City of Portland. It really isn't that difficult to grasp this concept. I ask the Planning Board to think about it.

*Mary Wapner
36 Oregon St
Portland Me*

Bretna Parker
30 Bay View Dr

PC15

In the RSA code, (DIVISION 6.5, Section 14-127, (a), 5, e.) it states:

Each unit shall be provided with at least two trees.

Where will the applicant be planting 668 trees?

Katy Mahoney
4994 PC 16

Regarding text amendment proposals:

Section 14-127. Permitted uses.

Under (a) Residential:

The planner's proposal shows this sentence crossed out:

2. The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.

This is inconsistent with the applicant's text amendment proposal which does not include this crossed out text.

Which version is the applicant seeking?

Mary Mahoney

In the planner's memorandum the Motherhouse development is described as having 66 affordable and 22 market rate apartments. In all of the applicant's documentation, with one exception, it says all 88 are affordable. (The exception is in minutes of the Holy Thursday neighborhood meeting (April 2nd) in the Convent where the applicant states that it's 66 affordable and 22 market.) Please clarify?

Kathy Mahoney

In the planner's Memorandum under
IV. EXISTING CONDITIONS AND ZONING

a. Background

The 2nd paragraph ends with the word 'and'.

There is no mention of the applicant also seeking Low Income Housing Tax Credits. (FYI: At the neighborhood meeting on Holy Thursday, the applicant reported that in addition to the combined federal and state historic tax credits of \$6.2 million, they are seeking \$7.4 million in low income housing tax credits.)

Since the apartments in the Mother House will be subsidized, who pays for the subsidy?

Who is paying for the tax credits?

Who is subsidizing the rents?

Ultimately who is really paying for this project?

Kathy Maloney

In the planner's Memorandum under
VI. PROPOSED ZONING AMENDMENTS

2nd paragraph states:

"605 Stevens Avenue and 802 Ocean Avenue proposals quote/unquote
'compatible at this stage' ". Please explain what makes these two projects
compatible?

Kathy Mahoney

In the applicant's letter under

3. PLANNING BOARD AND PUBLIC FOLLOW UP

c. Building Height and Site Sections:

The applicant states that the height of 60 feet will be below the Mother House roof level. Does this mean the lowest level of the roof where it meets the wall, the top of the peak, or somewhere in between?

Kahy Mahoney

What are the parking requirements of R5A?

The applicant proposes underground parking. Is there other underground parking in this neighborhood?

Is there much, if any, underground parking of this type in Portland at all?

Where will the parking be for the initial phase of 88 units in the Mother House?

Will parking be allowed in front of the Mother House?

Would underground parking cause more water problems for residents on Pershing and Holly Streets?

How would such extensive excavation disrupt the already compromised Baxter Woods?

Kathy Maloney

At the neighborhood meeting on Holy Thursday, one of the questions was "What utilities will the tenants be paying?"

The applicant answered: electricity.

What is the planned source of heat for the Mother House and the surrounding buildings?

Kathy Mahoney

In the applicant's minutes from the neighborhood meeting on Holy Thursday it states that the services will transition into more full service congregate facilities in later phases as residents age. However in the Attachment C./Maine Traffic Resources report it specifically states that the expected split for the maximum 335 units would be 24 assisted living units and 311 independent living units. Please clarify this inconsistency. How do these conflicting numbers fit into proposed zoning request.

Kathy Mahoney

The density the applicant is seeking is more than 3 times the density that exists in the surrounding R5 zone. This is significant and completely incompatible with the neighborhood.

From: o <jagwindham@aol.com>
To: <JF@portlandmaine.gov>, <jmy@portlandmaine.gov>
Date: 5/6/2015 1:26 PM
Subject: Fwd: letter to Stuart O'Brien and planning board staff and members

Judith A Girard
 165 Warren Ave
 Portland, Me 04103

Dear Mr. O'Brien,

I am a lifelong resident , and property owner in the city of Portland. I am writing this, the first letter in my 61 years to any official anywhere, because I am having some serious doubts about the direction this city, and its planners are heading. You and your board face some complex issues every day, the consequences of which will impact the complexion of the city of Portland and it's neighborhoods for generations to come.

I have recently become very interested in a project you are reviewing for a zone change. I have some specific concerns about this application, proposed in the neighborhood I grew up in, Walton St and Steven's Ave. The first is really the root of all of my other concerns about this application, and the reason I believe a zone change would be disastrous for this area, the project is WAY too big. Every time I look and new renderings for this development there are one or two buildings added to the plan. At your meetings there has rarely been a discussion about the aesthetics of such an aggressive build ,indeed there has been calculation upon calculation to try to figure out how to get more units on a postage stamp. That alone should send up a red flag. This is an historic property in an historic neighborhood and the city is actually being asked to allow the developer to saturate this estate with so many buildings, that in anyone's estimation, would be an insult to the grandeur of this irreplaceable treasure. The very thought shows no regard for the significance of this Historic building . If the zone change occurs I guarantee that the developer will be back in your office looking to put up two or three more buildings on the Catherine McAuley site because the school will surely be choked out by this aggressive construction. I will concede that many of us are nostalgic about the place we grew up, played with our friends and went to school, but I am lucky enough to share some unique memories about an area of Portland that I was always told as a child was special. One could go to school from sub primary and, in those days all the way through college , today I believe a doctorate at UNE, and all in walking distance on one street. That distinction is about to change forever as we close more and more of our neighborhood schools.

With an zone change at 605 Stevens Ave ,I firmly believe, that you will be ringing the death knell for Longfellow and McAuley and then Lincoln will follow soon. If the project you are considering at the Motherhouse passes the complexion and livability of this unique area will change forever. I can see the rehab developers ,eager to capitalize on tax credits and subsidies, ready to jump in and repurpose those

buildings into "affordable housing", and save the day. Indeed, that will take care of our immediate need to house the baby boomers, and find a use for our large, hard to heat, beautiful historic structures for today. But what about our future as a city. It seems to me what makes that particular area of Portland so attractive to families who have chosen to live there, are the very same issues we are dismissing about this project in favor of the developer's plan to build as many buildings as allowed

. Please please please - all of you of take a ride or better yet an evening stroll from the UNE campus through to Deering High School. Look around at how beautiful the area is. Take a walk on the Motherhouse property and envision those massive buildings on the grounds and then stop for a coffee at the Black Cat Coffee Shop, or an ice cream at Jet video, and see the families and their pets walking or riding bicycles enjoying being neighbors. Take away those schools, take away their sense of safety, make that community too difficult to navigate, and enjoy, and you can take away those families and those businesses.

Hand in hand with the size of this project, is the uncertainty of what we are going end up with on this site. This is what I have observed over a series of several meetings that I have attended about this project. The developer, by his own admission has had TEN YEARS to work on the plans for this property, while also carrying out similar projects in other areas throughout the State. At this point, his company should be fairly well versed in the particulars of this type of build and the issues they might face. Why then at every meeting, when they have been asked a direct question about very important aspects of this development the answers have been "we need to do more homework" or "that's something we are thinking about". Well, in my mind the answer then would be, go back, think about it, do your homework and get back to us. I am reminded of a famous quote that a teacher of mine used "poor planning on your part, does not constitute an emergency on mine". If they are not ready to answer the very important questions about the impact their proposal will have on the safety and quality of life for the citizens of Portland and the surrounding environment, then why are we rushing to a hearing. I know the easy answer is "so they can apply for their tax credits" but with all due respect they have had 10 years to think about this and I for one have more questions than answers about this proposal. Their poor planning is not the citizens of Portland's emergency.

And lastly, while I understand the need for zone review off the peninsula, and some projects require a denser use than R5 allows, I propose that there are several plots of land in areas that will have low impact on their surroundings and the city's neighborhoods that R5a might seem appropriate, this historic setting is just not one of them. I applaud the efforts you make on the citizens behalf, and trust that you will make a thoughtful decision to deny the zone change and insure the development on this site

will be kept in the respectful scale that such an irreplaceable part of our history deserves.

Thank you,
Judith A Girard

From: "Katie Mahoney" <krm35@maine.rr.com>
To: <jf@portlandmaine.gov>
Date: 5/7/2015 6:22 AM
Subject: R5A Zone - the McAuley Place Project at 605 Stevens Ave

Good morning,

Since the height in R5 is 35 feet, a reasonable height for R5A would be 45 feet. If the height for R5A is 55 feet in this particular project, it detracts from the visual significance of the Mother House and will create a wall next to Baxter Woods blocking sunlight from the trees and reduce the view from the inside Baxter Woods.

In light of recent news articles regarding the abuse of tax credits, I am concerned about rushing a zone change for this property without a full understanding of how these credits can be used. The need for tax credits is the reason for the rush. This is our money too. Please investigate whether the same abuse could happen before making a zone change recommendation.

I like the density the way it is. Please preserve our neighborhood.

Katie Mahoney

Deerin Ave

Portland

From: Jesse Thompson <jesse@95mdl.com>
To: Jean Fraser <JF@portlandmaine.gov>
CC: Jeff Levine <jlevine@portlandmaine.gov>, "Tuck O'Brien" <stuartobrien@me...>
Date: 5/10/2015 11:07 PM
Subject: Planning Board: 605 Stevens Ave zone change YES

Please forward this to the Planning Board members as possible:

I hope my comments do not arrive too late for entry into the public record for next Tuesday's Planning Board Public Hearing. Unfortunately I am not in town Tuesday night, or I would gladly speak in public what I'm writing below.

I'm a resident of Deering Center and have been for many years. Our family currently lives on Madeline St, only a few blocks from the proposed zone change on Stevens Ave. My children attend Longfellow & Lincoln Schools, and they both walk to school every day through our neighborhood. They are currently walking past posters tacked to every pole in the neighborhood decrying the proposed design for 605 Stevens Ave as "Imperiling Our Neighborhood".

I could not disagree more. I hear that letters in favor of projects like this are much more rare than angry letters scared of what change might bring, but I also know that many members of my neighborhood would welcome this project whole heartedly, they've said as much to me even if they have not written in to say so.

I support both the renovation of the Mother House and the new homes proposed to be built behind it.

The proposed renovation of the Mother House is critical to ensure that this important community building does not languish unused for any more years. The team working on this project has done wonderful things at the Nathan Clifford School and numerous other historic renovations. They should be applauded for taking on such a difficult & risky project.

The other new residences proposed in the rear of the lot would also be a wonderful addition to our neighborhood. The fears being raised by opponents of this project are just that, fears. Where else in Portland would it be possible to create new homes like this for people within walking distance of great restaurants (Siano's & The Cafe at Pats), close by neighborhood businesses (The Quality Shop, Black Cat Coffee, Jet Video, etc), close enough to volunteer at neighborhood schools (Longfellow, Lincoln, Deering High) and have wonderful walking paths in historic Evergreen cemetery, all without requiring a car.

To claim building new homes for people within walking distance of so many great resources will harm our children walking to school with too many cars is fear mongering, plain and simple. The Planning Board will need to make sure that there is good connectivity to the neighborhood through walking paths, low speed roadways and the like, but if this is accomplished carefully, we will only see a better neighborhood in the end.

I sincerely believe that building new homes like this project proposes will only bring benefits to our city, including more customers for our neighborhood businesses, more tax dollars to help fund our schools and new neighbors to help make Deering Center an even better place.

I hope you approve the Zone Change before you this week, I believe this project will greatly improve our neighborhood.

Thank you,

Jesse Thompson
95 Madeline St

Portland

From: Michael Mertaugh <michaelmertaugh@gmail.com>
To: <JF@portlandmaine.gov>
Date: 5/8/2015 1:36 PM
Subject: Comment on Proposed Zoning Change for Sisters of Mercy Motherhouse

Dear Ms. Fraser,

I wish to offer the following comment on the proposed zoning change for the Sisters of Mercy Motherhouse site on Stevens Avenue:

The proposed zoning change would enable a large-scale senior housing development on Stevens Avenue that is fundamentally incompatible with the unique character of the Stevens Avenue neighborhood. This neighborhood along this stretch of Stevens Avenue is a unique educational "campus" for the city of Portland, with important historical educational institutions ranging from elementary schooling through middle school and high school, and the undergraduate and graduate programs at the University of New England. The proposed development site is also across the street from the historic Evergreen Cemetery, a National Register landmark and one of the most loved of Portland's open spaces, and immediately adjacent to Baxter Woods -- a much-used rural retreat within the city limits. The proposed development would significantly diminish the wilderness park experience for the users of Baxter woods, and would impose safety risks for the many students who walk and otherwise travel this corridor on their way to and from school. A plethora of studies document the much higher accident risk among elderly drivers, a large number of whom would be brought to the site by the proposed development. The project would generate a major increase in traffic flows along this critical stretch of Stevens Avenue, in contrast to the neighborhood's efforts to reduce traffic flows and lower vehicle speeds. The proposed massing of new buildings adjacent to the Motherhouse would also diminish the historical significance of this important city landmark. For these reasons, I urge the Planning Board to reject the applicant's proposal for a change to R6 zoning.

Best regards,

Michael Mertaugh
118 Beacon Street
Portland Maine

From: o <jagwindham@aol.com>
To: <jf@portlandmaine.gov>, <jmy@portlandmaine.gov>
CC: <jagwindham@aol.com>
Date: 5/8/2015 5:25 AM
Subject: Steven's Avenue traffic study

Judith A Girard
185 Warren Ave
Portland, Me 04103

To: Planning board and staff,

On the heels of my first letter to city officials, I am prompted to write another after looking at the results of the developers traffic study. While the amount of time I might have to sit at a traffic light might affect my ability to get to work or school on time, the issues in this area are much broader. There was no consideration given to the large number of bicycle and pedestrian travelers heading to and from those Schools. In the interest of safety, we must not ignore the facts, or some family will pay the price. This is not an IF it happens, it is WHEN it happens.

I found myself at the intersection of Pleasant and Steven's Avenues @5:40 PM last evening (actually before I had an opportunity to read the traffic study) and this is exactly what I observed. I was the first car in line with a red light, about to take a right hand turn on to Steven's. In the intersection on my side of the street trying to cross Steven's Ave, was a mother and son on bicycles with tennis rackets. On the opposite corner, two young (pre teen) girls crossing to the Jet Video (my) side of the Street. Looking towards Deering High a couple walking and a woman walking her dog were heading away from Pleasant and another group of children (@5 middle school age) walking towards me on my side of the street. The doors were open at Jet inviting the post dinner ice cream rush, and a "family" of bicycles (3) were propped up against their building next to a double jogging stroller. There were cars in all four directions and every parking space was full, except one handicapped spot to my right. After the light turned and the pedestrians crossed, I turned right and as I approached the Quality shop (again several cars, bicycles and pedestrians) there was a young woman starting to cross from the Pat's/ Siano's side to the Quality shop. Continuing a block Baxter Woods was, as usual busy with couples and owners waking their pets, and a mother sat at the picnic table while her young son played on the big log next to her. I pulled into McAuley for the heck of it to see what was going on there, and found their parking lot @ 1/3 full and a group of Lacrosse players coming off the field after a practice, and a Little League or some sort of baseball game going on at another field. Clearly the community uses those fields not just McAuley because these were very young children.

The area is bustling with families, children, pets and their parents, and drivers of any age need to use caution and keep their eyes open when they navigate through this neighborhood. The numbers in that traffic study do NOT even begin to show the whole picture. I urge the planning board members to visit the area and the site of the proposed project and then tell me that R5A is appropriate for this neighborhood.

Thank you,
Judith Girard

From: o <jagwindham@aol.com>
To: <jmy@portlandmaine.gov>, <JF@portlandmaine.gov>
Date: 5/9/2015 7:02 AM
Subject: Fwd: Zoning Change

This letter was sent on April 27th as comment about the proposed zoning change at 605 Steven's Avenue. Since I did not notice it listed among public comments, I am concerned that it did not arrive. I am resending it today so it may be considered before the public hearing.

Thank you,
 William Kendrick

William K Kendrick
 185 Warren Ave
 Portland Maine 04103

Re: Zoning change for the contemplated development of the 605 Stevens Ave property at
 Catherine McAuley High School and the Mother House

Dear Mr. O'Brien

I am a Portland resident who is quite concerned about several aspects of the contemplated development on the Sisters Of Mercy property on Stevens Avenue. My concerns arise largely from the scale of the project and the impact that further development of this magnitude will have on the neighborhood density and traffic. At the most recent workshop (April 14 2015) the applicant again informed those in attendance that the development team has not yet completed it's "homework" and that some important details of the project have not yet been completed. Consequently the acting chair of the meeting suggested that another workshop be scheduled to deal with those open issues. The applicant pointed out that another workshop might jeopardize their ability to apply for and obtain the tax credits needed to finance the project. Despite the open issues and gaps in the project details the city officials then decided to forego another workshop and proceed with the public hearing. That decision seems to be at odds with the planning and due diligence work that remains incomplete.

There were also comments made by a member of the Planning Board late in the workshop after the opportunity for public comment had closed. Mr. Bill Hall expressed his view that he was not at all concerned by increasing traffic loads in the area. Mr. Hall offered no facts to support his views and he seemed to simply dismiss the concerns of so many in the neighborhood who are acutely aware of traffic and parking problems along both Stevens and Forest Avenues.

To the best of my knowledge, an adequate traffic study has still not been completed, or even scheduled. Given the scale of the project, current traffic and parking issues, and the proximity of so many schools, it strikes me that a thorough traffic analysis is essential before the zone change is considered. As recommended by the city's planning staff, that study should include the impact of already approved expansions at Park Danforth and Deering Pavillion.

I have attended several of the public meetings regarding this project where the applicant has suggested that they are considering underground parking as a solution for the number of spaces needed for such dense building. They have also acknowledged the expense might be prohibitive depending on site geology. Also, statements at previous public meetings have expressed knowledge that the property has "water issues" making underground parking impractical. The fact that the applicant has not yet addressed these issues is, I think, a further indication that insufficient information has been provided to approve a zone change at this time.

Sincerely,

William K Kendrick

From: Kim Crabill <krabill93@gmail.com>
To: "JF@portlandmaine.gov" <JF@portlandmaine.gov>
Date: 5/11/2015 5:18 PM
Subject: Deering center redevelopment

I have been a Deering Center resident for over 13 years and I'm excited about this redevelopment project.

Kim Crabill
207.615.3181

From: Barbie Weed <infoandwork@gmail.com>
To: <JF@portlandmaine.gov>
Date: 5/11/2015 5:06 PM
Subject: Zoning for Steven's Ave. development

Hello,

I am a homeowner/resident of Deering Center and am concerned about the proposed zoning application for the property behind McAuley High School. I recognize that this property will probably be developed in some fashion, but I would object to any zoning proposal that would allow any future developer to create housing units with a significant density or that would allow businesses along that stretch of Stevens Avenue. Deering Center is a residential neighborhood, but we are constantly having to fight for the quality of life that caused us to spend money for homes in this area. The traffic caused by a dense housing development along Stevens Avenue would make travel, which has already been compromised by UNE's student traffic on this overused artery, continuously hazardous. There are thousands of K-12 students on Stevens Avenue daily during the school year and there is no reason to increase their risk. This is especially true since high school students who are not attending Deering will, starting next year, be walking and trying to catch buses along Stevens Avenue in order to get to school.

I am also concerned about how a tall development would impact Baxter Woods and how a development covering significant land surface would impact the watershed that runs through the neighborhood. The environmental impact of both of those things could have serious detrimental effects. The city was entrusted with the maintenance of the Woods, which is a vital environment for a host of animals and plant life. Those plants and trees help manage the water that naturally flows through the neighborhood. If the woods are unhealthy or unable to grow because light conditions change, the water flow could affect homes, Forest Avenue, and even the new development.

I lived on the peninsula for many years, but, like most of my neighbors, I eventually bought a home in this neighborhood in order to stay in Portland while avoiding the congestion. Portland needs to create a plan for expansion and unbridled development does nothing for maintaining a healthy city. Open land should not be wantonly filled with compact apartments just because it can be. Deering Center is not a suitable location for a development that would completely subvert the residential, family quality of this neighborhood. I call upon the Planning Board to act in the interest of the taxpayers of this neighborhood, not the developers. Ensure that zoning allows for only development that will not cause harm to our community.

Barbara Weed
26 Brentwood Street

(received 5.11.2015)

May 7, 2015

To: Jean Fraser & Planning Board, City of Portland

Re: 605 Stevens Avenue

From: Bobbi Cope, 172 Concord Street

I oppose allowing the R5A on this property on Stevens Avenue because:

- There are traffic safety risks that cannot be 'mitigated'. I think it is irresponsible and reckless of the Board to dismiss traffic concerns without further consideration. **The thousands of child pedestrians that walk along Stevens Avenue on a daily basis have not been counted in any of the traffic analyses.** Please remember that two children have been killed on this street. In my conversations with a traffic expert I've been made aware that the combination of young children and elderly drivers is the most dangerous and deadly. The traffic analysis that was provided by the applicant appears to be an analysis from an engineering perspective. It does not address any of the safety issues that we raised. These risks exist today even without considering the introduction of 368 additional dwelling units here, and Park Danforth's and UNE's ongoing expansions thrust into the middle of it. The applicant states "Compared with virtually every other type of use allowed on the property under zone 5 or 5A, a senior community will produce the lowest and safest amount of traffic by far." This is conjecture. What other uses have been considered?
- R5A would allow density that is disproportionate.
- If approved, the maximum height allowed for this project should be property specific and not lumped in with R5A development in other neighborhoods. The height limit that is being proposed of 55 feet is inconsistent with the surrounding buildings, landscape and suburban neighborhood which currently has a 35 foot maximum. This creates a visual scale that suits the area. You have relied on the applicant's approximations of the height of the Motherhouse. Throughout the application process they have submitted varying measurements. If the height of the Motherhouse is somehow going to dictate the height that is going to be allowed, there should be a measurement done by a third

party for the record. The applicant stated (April 24) "no building exceeds the roof height of the existing Motherhouse". **This language will not be in the R5A language and would allow the applicant or another developer to possibly exceed the height of the Motherhouse.**

- The R5A does not allow a school. Applying the R5A here is a square peg in a round hole. The project would be on a street that is essentially a 'school zone' from end to end. I find this remarkable and obviously inconsistent with the neighborhood that has been a street of schools for over one hundred years. This development would put a halt to any potential growth at McAuley High School (almost certainly be its death knell) and, in fact, would encourage a transformation into something completely inconsistent with the neighborhood's context, history and current zoning.
- I have heard the term "elder warehousing" to describe what's happening in such a concentrated area. With Park Danforth's planned expansion, Deering Pavilion's likely expansion since they are in R6A now, a possible repurposing of Longfellow if it closes, and this proposal within ½ mile of each other, the unpleasant term seems apropos.
- This project, as proposed, does not fit in this neighborhood. It's in high contrast with the current zoning and the majority of opinion in the neighborhood and by others who frequent the area is in opposition to the change to R5A. In contrast, the 802 Ocean Avenue project is being supported by neighbors.
- In the Motherhouse on Holy Thursday, April 2nd, at the neighborhood meeting hosted by the applicant, in a room of at least 80 people, John Wasileski said, "If we are not embraced, we'll drop it." He also said, "My word is my bond." I'D LIKE TO HOLD HIM TO HIS WORD.

Here are some suggestions for development that would be better suited to the neighborhood.

- Build several homes on the property which would be in scale with the property and the neighborhood.
- Allow the school to grow. Perhaps McAuley could become a world class boarding school.
- Park: Expansion of Baxter Woods. We need more green space, not less.

- B & B (This is a common conversion for obsolete monasteries and convents throughout the world.)
- Retreat Center
- Urban Farm
- Orchards

Bobbi Cope

To: Planning Board, City of Portland and City Planner
Re: 605 Stevens Avenue zone change application/Public Hearing May 12, 2015
From: Bobbi Cope, 172 Concord Street
Date: May 9, 2015

I oppose allowing the R5A zone change on this property. The potential negative impact on this neighborhood cannot be overstated. Here are some concerns:

- incompatible density
- traffic safety and congestion
- the safety of thousands of children
- jeopardizing the future of McAuley (the state's only all girl school)
- sufficient new parking
- environmental impact
- negative effect on the experience and quality of Baxter Woods
- the loss of green space
- impact on storm water, ground water and springs
- historical significance
- the culture and tradition of Stevens Avenue
- incompatible building height, scale and massing
- the visual aesthetic
- manipulation of net/gross land area calculations
- trustworthiness of the developer
- unknown further development
- missing an opportunity to carefully plan a better alternative on this unique property (housing consistent with R5, development of educational institutions, expansion of Baxter Woods, conference and retreat center, urban farm, orchards, community gardens)

Public opposition to the proposed zoning ordinance changes has been overwhelmingly negative on virtually every proposed element. The proposed amendments to the R5A Zone would radically depart from decades of measured and sensible land use. I object to the Planning Board rushing through the process with all the unanswered questions and no consideration to any alternatives simply to accommodate the applicant's unsubstantiated warning that tax credits may be lost. Can you hear our plea?

Over the last few months you have been asked many questions, listened to many comments, heard and read compelling opposition, and considered challenging issues. You've looked at charts. You've read reports. You are charged with analyzing all of the data, from the planning staff, the applicant and the public. This is a long term issue. There is much more to consider and the citizens of the City, and in particular, the residents of Deering, are relying on you to be as thoughtful, deliberate and careful as you can be.

Lastly, you are legally bound to comply with the City of Portland's Comprehensive Plan. In light of my serious concerns, I have retained Perkins Thompson to review the text amendments for legal sufficiency and have been advised, per the firm's enclosed letter, that several of the proposed amendments are not legally viable. As a taxpayer of this City and lifelong resident of the neighborhood, I hope you will be cautious before choosing a regrettable path and exposing the City to the risk and expense of litigation.

Sincerely,



Bobbi Cope

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

May 11, 2015

Ms. Bobbi Cope
172 Concord Street
Portland, ME 04103

**Re: Legal Viability Review of Certain Proposed Amendments to the R5a Zone
in the Portland Land Use Ordinance**

Dear Ms. Cope:

You have retained this firm to review proposed amendments to Portland's Land Use Ordinance prepared by the Portland Planning Department, as set forth in **Attachment 1** (Proposed Amendments), to evaluate their consistency with the City's Comprehensive Plan.

The Proposed Amendments include revisions to the Ordinance's R5a zone, Division 6.5, §§ 14.126 *et seq.*, and to the definitions of "congregate care facility" and "net land area" §14.47 ("Definitions"). The City Planner's April 10, 2015 Memorandum to the Planning Board advises that the Proposed Amendments are a merger of proposals from three sources: an Ocean Avenue property developer, a developer/purchaser of the Sisters of Mercy's property at 605 Stevens Avenue, and the City's planning staff.

The Proposed Amendments involve significant and sweeping changes to the Ordinance's R5a zone, including its review process and standards for large, higher density projects. They would cancel the City's ability to negotiate with the developer through the R5a zone's current contract zoning mandate for large projects and to obtain public benefits through that process (such as greater open space, public access, and preservation of natural features) in exchange for such higher density allowances.

In effect, the Proposed Amendments would overhaul the R5a zoning provisions in the Land Use Ordinance to accommodate a developer's preferred sized project, before the developer even submits a permit application. This is the reverse of the normal process, where a developer designs and circumscribes its project, and then submits its permit application to meet the existing terms of the Land Use Ordinance.

PHILIP C. HUNT
JOHN S. UPTON
PEGGY L. McGEHEE
MELISSA HANLEY MURPHY
JOHN A. HOBSON
JAMES N. KATSIARICAS
TIMOTHY P. BENOIT
J. GORDON SCANNELL, JR.
FRED W. BOPP III
MARK P. SNOW
WILLIAM J. SHELS
DAVID B. McCONNELL
PAUL D. PETROPOULI
RANDY J. CRESWELL
JULIANNE C. RAY
DAWN M. HARMON
CHRISTOPHER M. DARGIE
STEPHANIE A. WILLIAMS
PETER J. McDONELL
SARA N. MORRIN
SHAWN K. DOIL
JOSEPH G. TALBOT
LAUREN B. WEIJVER
JOSEPH C. SIVISKI
JOHN W. MASLAND

Ms. Bobbi Cope
May 11, 2015
Page 2

In the face of such an Ordinance overhaul to accommodate an individual developer in advance of its permit application, particular scrutiny should be given to the City's Comprehensive Plan to insure the Proposed Amendments are consistent with it, as required by both the City and the State. *See* 30-A M.R.S. § 4352(2) (a municipal ordinance must be "consistent with a comprehensive plan adopted by the municipal legislative body...").

Our review finds that at least three of the Proposed Amendments are inconsistent with the City's Comprehensive Plan, as they contradict the Comprehensive Plan's description of the core features that are to be included in the R5a zone.

The City's Comprehensive Plan includes, in its Volume II, summary descriptions of each of the City's land use zones, so as to "define" each zone's "purpose" and "parameters".¹ Its description of the R5a zone states in relevant part:

7. R-5a RESIDENTIAL... The permitted residential uses in the R-5a zone are very similar to those in the R-5 zone, except that multiplexes are not allowed. The other significant difference is that PRUDs may be developed at a higher density. PRUDs in an R-5a zone require a minimum of 3 acres and a minimum net land area of 1,600 square feet per unit compared to 3,000 square feet in the R-5 zone. The R-5a is applied through rezoning when a site and development proposal meets the intent of this zoning classification.

Comprehensive Plan, Volume II, Implementation Plan: Future Land Use Plan, p. 64 (emphasis supplied).

As explained below, the Comprehensive Plan's parameters for the R5a zone are that: 1) higher density projects in the R5a zone are available only as PRUDs; 2) the standard of a 1,600 square feet minimum net land area per unit means "net land area" as it was defined when this Plan parameter was adopted; and 3) landowner rezoning to an R5a PRUD must be done through conditional or contract zoning.

- 1) **The Comprehensive Plan requires that large, higher density projects (including congregate care facilities and multi-family dwellings) only be permitted in the R5a zone as PRUDs.**

The Plan states that "[t]he permitted residential uses in the R-5a zone are very similar to those in the R-5 zone, except that multiplexes are not allowed." As stated in the Plan's description of the R-5 zone as to all permitted uses (excepting out multiplexes):

¹ Comprehensive Plan, Volume II, Implementation Plan: Future Land Use Plan, p. 53, stating that it "lists each zone under the designated growth or rural areas and *defines the zone with its general location, purpose, parameters* and potential revisions." (emphasis supplied)

The residential uses permitted in the R-5 zone include single and two-family structures ... Planned Residential Developments (PRUD) with horizontally or vertically attached units, single family manufactured housing units, and handicapped family units. Parks, home occupations, and special needs independent living units are permitted. Some of the other conditional uses include sheltered group homes, alteration of a structure for 3 or more dwelling units, conversion of units to lodging houses, schools, churches, private clubs, hospitals, colleges, and day care facilities.

Comprehensive Plan, Volume II, Implementation Plan: Future Land Use Plan, p. 63.

The Plan's R5a zone parameters do not include as "permitted" uses, therefore (outside of PRUDs), either congregate care facilities or multi-family dwellings, which are not listed in the R-5 zone's list of permitted uses. (Note: The term congregate care facility is currently *defined* in the Ordinance, §14.47, as a "planned residential unit development.")

Thus, the provisions in the Proposed Amendments that would add congregate care facilities and multi-family dwellings as "permitted" uses in the R5a zone, instead of as versions of a PRUD, see Attachment 1, would be, on their face, inconsistent with the Comprehensive Plan. (Note: The Proposed Amendments would also change the definition of "congregate care facility" to delete the words "planned" and "unit," rendering it also inconsistent with the Plan's references to such facilities).

- 2) **The Comprehensive Plan requires that the 1,600 square feet minimum net land area as that term is used in the R5a zone must have the same meaning as it had when the Plan provision was adopted.**

The proposed overhaul of the Ordinance definition of "net land area," the effect of which will be to expand substantially the amount of a property's developable land (by deleting from the "net" calculation, easement areas, storm water detention areas, inaccessible areas, and the 20% open space requirement, see Attachment 1), would render the Ordinance's definition *per se* and inherently inconsistent with the Plan's meaning of the phrase in its description of the parameters for the minimum net land area in the R5a zone.

- 3) **The Comprehensive Plan requires that PRUDs in the R5a zone be applied through landowner contract or conditional rezoning.**

As to the Comprehensive Plan's statement that "[t]he R-5a is applied through rezoning," such rezoning application is provided, under the terms of the Plan, through conditional or contract zoning. The Plan states that "[c]onditional or contract zoning is authorized for rezoning ... [and it is] limited to where a rezoning is requested by the owner of the property to be rezoned." Comprehensive Plan, Volume II, Implementation Plan: Future Land Use Plan, p. 79.

The Ordinance's R5a zone provision, § 14.127(2), thus states, as consistent with the Plan, "[p]lanned residential unit development (PRUD) consisting of horizontally or vertically attached

dwelling units or a series of such dwelling units ... shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.”² See 30-A M.R.S.A. § 4301(5) (“‘Contract zoning’ means the process by which the property owner, in consideration of the rezoning of that person’s property, agrees to the imposition of certain conditions or restrictions not imposed on other similarly zoned properties.”).

The Proposed Amendments’ deletion of conditional or contract zoning as the PRUD rezoning process is thus inconsistent with the Plan’s parameters for R5a rezoning by landowner application.

Should these Proposed Amendments be adopted, they will not only render the Ordinance’s R5a zone inconsistent with the Comprehensive Plan, their effect will be to enable the developer to avoid the material dimensional and density limits that are incorporated into the Ordinance’s PRUD standards and its net land area calculation, and to avoid trading public benefits for density bonuses. We understand that this is a particular concern for your Stevens Avenue neighborhood, as the proposed project on the Sisters of Mercy 13+ acre property would enable the construction of more than 350 units in large block buildings that would be 55 feet high.

Independent of the *per se* Plan inconsistencies that the Proposed Amendments would cause, there is the question whether the very size and scale of the proposed Sisters of Mercy property development would render any R5a rezoning of the property, without any contract zoning conditions and limits, to be inconsistent with the Comprehensive Plan’s goals and policies for the Stevens Avenue neighborhood, including its goals to preserve the neighborhood’s integrity, to control and limit its traffic, and to insure building height compatibility.³ See *Rommel, et al. v.*

² Division 1.5 of the Ordinance provides examples of the types of conditions and restrictions that can be imposed through contract zoning, including:

- (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 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 any breach of condition or restriction.

City of Portland, Code of Ordinances, § 14-62.

³ For example, the Comprehensive Plan and its incorporated studies state as its goals that are relevant to the Stevens Avenue neighborhood, that:

- “To make drivers aware of foot traffic and demonstrate means of diverting through-traffic from streets that cut through neighborhoods. Pilot Area 1: Stevens Avenue from approximately

City of Portland, et al., 2014 ME 114, 102 A.3d 1168 (conditional rezoning upheld to permit the renovation of residential spaces in a parish house and office space in the first floor). In *Rommel*, the Law Court noted that the City “considered and balanced the goals of the comprehensive plan” and that “the City Council approved the rezoning only after attaching conditions [] to ensure the [contract zoning agreement was] consistent with the comprehensive plan.” *Id.* ¶ 16,

Evergreen Cemetery to Frost Street. Elements: Aggressive traffic ‘calming’ techniques, Pedestrian circulation/safety measures (as are being proposed in a Stevens Avenue pedestrian study now ongoing)”. Transportation Plan p. 68.

- Goals for R-5 zone: “...reinforce the context and existing character of the neighborhood; The buildings’ massing...shall be consistent with existing residential buildings in a two block radius.” Housing Study (Design Manual) p. 1 at (1) and (3).
- Neighborhood Stability and Integrity: Policy: “...protect the stability of Portland’s residential neighborhoods from excessive encroachment by inappropriately scaled and obtrusive commercial, institutional governmental and other non-residential uses.” Housing Study, Policy #3, p. 18.
- “Uphold Zoning: Enforce approved density regulations in the Zoning Ordinance.” Housing Study, Policy # 3, p. 18.
- “Adopt design guidelines for new housing...compatible with the character and patterns of development in each neighborhood.” Housing Study, Policy #3, p. 18.
- “Traffic and streetscape studies for Stevens Avenue, Congress Street and Brighton Avenue offer a range of improvements to increase the multiple uses of these roads. Raised crosswalks are located along Stevens Avenue to slow down traffic and create safer crossing points for students attending the five schools along this Avenue. Comprehensive Plan, Volume I, T-4.
- “...the problem of through-traffic dividing and disrupting neighborhoods is likely to persist and must be addressed directly. The proposed strategy has four parts, dealing with arterials in four different situations: 1. Where commuting traffic has an alternative to the arterial that is cutting through the transportation district and its neighborhoods, take steps that will discourage use of the arterial (including “calming” traffic through reduced roadway capacity, substituting on-street parking, bike lanes, etc.) and, concurrently, encourage the use of other arterials that are better located (upgrading the latter arterials if necessary). The use of raised crosswalks on Stevens Avenue and concrete center circles at selected intersections on Capisic Street are examples of traffic calming on arterials.” Comprehensive Plan, Volume I, T-13.
- “Baxter Woods – this Park has 32 acres of forest. It is the largest undisturbed forest in the city and contains valuable stands of White Oak and groves of Hemlock. An important section of this ‘old growth’ forest is on land owned by the Sisters of Mercy (Catherine McAuley High School) and the Deering pavilion. This part of the forest was likely cut at one point over 150 years ago. Governor Baxter planted a plantation of Red Pines in 1947.” Comprehensive Plan, Volume 1 (N-12).

Ms. Bobbi Cope
May 11, 2015
Page 6

PC 26 page 7

103 A.3d at 1172. Such conditions included obligating the property owner “to rehabilitate, renovate, and maintain the property at higher standards than required under the Historic Preservation Ordinance alone.” *Id.* ¶ 18, 102 A.3d at 1173. The Proposed Amendments here would cancel these contract or conditional rezoning and other protections that had sustained the *Rommel* rezoning.

We do not see in the Planning staff memoranda that the Planning Department has considered the above cited Comprehensive Plan provisions in its consideration of the Proposed Amendments’ consistency with the Plan. You may therefore wish to forward this analysis to the Planning Department for its consideration and comment.

We will, in the meantime, stand by for any further assistance we can provide.

Regards,



Peggy McGehee

Lauren Weliver

Attachment 1

**Proposed Text Amendments Definitions; R5A; Site plan
for May 12, 2015 PB Hearing
Prepared by Portland Planning Staff**

Sec. 14.47 Definitions.

Congregate care facility: A ~~planned residential unit development~~ which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Living Unit: An independent self-contained dwelling unit that does not include full kitchen facilities.

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) 1. Stormwater retention areas;~~
- ~~2. Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) Inaccessible areas, as defined in this section;~~
- (d) Wetlands, as defined in this section;
- ~~(e) Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~

(f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

~~Inaccessible area:~~

~~(a) Land which is separated from the main portion of the development parcel by means of one (1) or more of the following:~~

~~1. Existing easements, rights of way or dedicated areas which preclude use in conjunction with the proposed development;~~

~~2. Cullies, drainage swales or watercourses, where the land which is separated thereby from the main development parcel is not to be used for the building of units or is not available for active or passive recreation areas; or~~

~~3. Areas which are located more than three hundred (300) feet from the nearest proposed dwelling unit.~~

~~(b) Areas which are not to be used for building purposes and are connected to the main portion of the development parcel only by a strip of land which is less than fifty (50) feet wide shall also be deducted as inaccessible areas.~~

DIVISION 6.5. R-5A RESIDENTIAL ZONE

Sec. 14-126. Purpose.

The purpose of the R-5A residential zone is:

(a) To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

Sec. 14-127. Permitted uses.

The following uses are permitted in the R-5A residential zone:

(a) Residential:

1. Single-, two-and three-family dwellings.

2. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-130 shall apply with respect to such developments except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. ~~The planned residential unit development shall be implemented through conditional or contract zoning, as described in division 1.5, for specific sites and proposed development meeting the overall requirements specified herein.~~ All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions). Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If

manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

6. Multifamily dwellings.

7. Congregate care.

(b) *Other:*

- 1. Parks and other active and passive noncommercial recreation spaces;
- 2. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 3. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
- 4. Municipal use;
- 5. Intermediate, extended and long-term care facilities.

6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

Sec. 14-128. Conditional use.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.
 - b. There shall be no open outside stairways or fire escapes above the ground floor.
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of the sheltered care group home permit.

(b) *Other:*

1. Utility substations, including water and sewage pumping stations and standpipes, electric power substations, transformer stations and telephone electronic equipment enclosures, and other similar structures, provided that

such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.

2. Nursery schools and kindergartens.
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
 - e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;

- ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and

- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

- 5. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

Sec. 14-129. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

Sec. 14-130. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5A zone shall meet or exceed the following requirements:

<u>Minimum Lot Size</u>	Residential (Single-, two- and three-family dwellings): 6,000 SF and a maximum lot size up to 2 acres ¹
	Planned residential unit development (PRUD), multifamily development of 4 or more dwelling units, and Congregate Care: 2 acres gross area
	Intermediate, extended or long-term care facilities: 1 1/2 acres.
<u>Min. Lot Area per D.U.</u>	Single-, two- and three-family dwellings: 1,600 SF.
	Planned residential unit development (PRUD), Congregate Care and Multifamily development of 4 or more dwelling units: 1600 SF of net land area. ²
<u>Min. Lot Area per Resident</u>	<i>Minimum land area per intermediate care facility resident: 8,000 SF gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.</i>
<u>Min. Street Frontage</u>	50 feet.
<u>Min. Yard Dimensions for Single-, two- and three-family dwellings²</u>	1. <i>Front yard:</i> Principal or accessory structures: 25 feet. 2. <i>Rear yard:</i> a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: 25 feet. b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: 5 feet. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article. (continued)

¹ A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest. Except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.

² Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.

	3. Side yard: a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: <table> <tr> <th>Height of Structure</th><th>Required Side Yard</th></tr> <tr> <td>1 story</td><td>10 feet</td></tr> <tr> <td>1 1/2 stories</td><td>10 feet</td></tr> <tr> <td>2 stories</td><td>14 feet</td></tr> <tr> <td>2 1/2 stories</td><td>16 feet</td></tr> </table> The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet. b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: 5 feet. 4. Side setback on side streets: Principal or accessory structures: 20 feet.	Height of Structure	Required Side Yard	1 story	10 feet	1 1/2 stories	10 feet	2 stories	14 feet	2 1/2 stories	16 feet
Height of Structure	Required Side Yard										
1 story	10 feet										
1 1/2 stories	10 feet										
2 stories	14 feet										
2 1/2 stories	16 feet										
Maximum Structure Height	Principal residential (single, two and three-family) or attached accessory structure: 35 feet. Accessory detached structure: 18 feet. Principal or attached accessory structure for PRUD, Multifamily development of 4 or more dwelling units, Congregate Care and Intermediate, extended or long-term care facilities: 55 feet.										
Max. Lot Coverage	30%										
Minimum Lot Width	60 feet										
Minimum building setback from external subdivision property lines	PRUD, multifamily development of 4 or more dwelling units, Congregate Care, and Intermediate, extended or long-term care: a. Building length of one hundred (100) feet or less: 25 feet. b. Building length of greater than one hundred (100) feet: 35 feet.										
Minimum recreation open space area	PRUD, multifamily development of 4 or more dwelling units, and Congregate Care: 200 SF per dwelling unit or living unit of common area designated on the site for recreation purposes.										

~~(a) Minimum lot size:~~

~~Residential (Single, two and three family dwellings): Six thousand (6,000) square feet, except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article, and a maximum lot size up to two (2) acres. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest.~~

~~Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.~~

~~Intermediate, extended or long-term care facilities: One and one-half (1 1/2) acres.~~

~~Multifamily dwellings: Two (2) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.~~

~~Congregate Care: Three (3) acres gross area, as defined in Section 14-47 (definitions) of this article, of contiguous land.~~

~~(b) Minimum lot area per dwelling unit for Single, two and three family dwellings: Sixteen hundred (1,600) square feet.~~

~~Planned residential unit development (PRUD): Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.~~

~~Congregate Care: Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.~~

~~Minimum land area per intermediate care facility resident: Eight thousand (8,000) square feet gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.~~

~~(c) Minimum street frontage: Fifty (50) feet. PRUD development: Fifty (50) feet.~~

~~(d) Minimum yard dimensions:~~

~~(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)~~

~~1. Front yard:~~

~~Principal or accessory structures: Twenty-five (25) feet.~~

~~2. Rear yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.~~

~~b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.~~

~~3. Side yard:~~

~~a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:~~

~~Height of Structure Required Side Yard~~

~~1 story 10 feet~~

~~1 1/2 stories 10 feet~~

~~2 stories 14 feet~~

~~2 1/2 stories 16 feet~~

~~The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.~~

~~b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.~~

~~4. Side setback on side streets:~~

~~Principal or accessory structures: Twenty (20) feet.~~

~~e) Maximum structure height:~~

~~Principal residential (single, two and three family) or attached accessory structure: Thirty five (35) feet.~~

~~Accessory detached structure: Eighteen (18) feet.~~

~~Principal or attached accessory structure for PRUD, Multifamily, Congregate Care and Intermediate, extended or long-term care facilities: Sixty (60) feet~~

~~(ef) Maximum lot coverage: Thirty (30) percent of lot area.~~

~~(fg) Minimum lot width: Sixty (60) feet.~~

~~(h) Minimum building setback from external subdivision property lines (PRUD) for multifamily, PRUD, Congregate Care, and Intermediate, extended or long-term care:~~

~~a. Building length of one hundred (100) feet or less: Twenty-five (25) feet.~~

~~b. Building length of greater than one hundred (100) feet: Thirty five (35) feet.~~

~~(gi) Minimum recreation open space area (PRUD multifamily, Congregate Care, and Intermediate, extended or long-term care facilities): Two hundred (200) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a contiguous area of six thousand (6,000) square feet, with a minimum dimension of fifty (50) feet, shall be provided and shall include one (1) or more of the uses set forth in section 14-526 (d) 9. and the planned residential unit development standards in the City of Portland Design Manual, but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.~~

Sec. 14-131. Other requirements.

[Other requirements are as follows:]

- (a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

- (c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate , extended and long term care facilities in the R5A and R6A zones.

From: Greg Payne <gregopayne@yahoo.com>
To: "jf@portlandmaine.gov" <jf@portlandmaine.gov>
Date: 5/12/2015 7:29 AM
Subject: McAuley Place

Hi Jean: I am a resident of the Deering neighborhood and am unable to be at tonight's meeting but would like to offer my general support for the proposed zone change at McAuley Place on Stevens Avenue. I am acutely aware that Portland needs more housing units across the spectrum of incomes, and that housing needs are particularly great for our growing population of seniors. The City has the opportunity here to facilitate the creation of quality homes for our seniors in partnership with responsible developers who know what they're doing. While there are no doubt plenty of details to work out with regard to ball fields and parking spaces, I would much rather see the proposed development move forward than some of the more intense uses that are currently permitted in the R-5 zone and which wouldn't address local needs the way this one does.

Thank you for your consideration. Greg Payne
66 Rosemont Ave.

From: Clare Ruthenburg <clare@netbc.net>
To: <JF@portlandmaine.gov>
Date: 5/12/2015 7:38 AM
Subject: 605 Stevens Avenue

Clare Ruthenburg
34 Caldwell Street
Portland, Maine 04103

Dear Ms. Fraser and members of the Portland Planning Board,

I, unfortunately, will not be able to attend the Planning Board Meeting this evening and would like to voice my opposition to the proposed zoning change to R5A for the 605 Stevens Avenue property. I feel extremely fortunate to have lived in this special Portland neighborhood for over thirty years. I am not opposed to development and understand the pressing need for elderly housing. But this development needs to be carefully planned without destroying the integrity of the surrounding neighborhood and without increasing safety issues. Our area is rich in history, has cultivated a strong community spirit, and is well endowed with public green space, including the peaceful woods that Mayor Baxter bequeathed us all.

On April 2nd, I attended the neighborhood meeting hosted by the applicant. He and his staff assured us that they would keep their buildings on a scale that would not distract from or exceed the height of the Motherhouse and would be situated in a way that the building height would not seem out of place in this residential neighborhood. I was gone during most of April and returned to learn that the R5A definition will allow for 55 feet height limit which appears different from what the applicant presented before. There were other modifications, including increased density, that contradicted the applicant's presentation. My understanding is that the R5A definition allows for flexibility from property to property and this "squishiness" could bring unforeseen consequences to this particular property now and in the future. The R6A zoning for Park Danforth and Deering Pavilion, in my opinion, will most likely impact our neighborhood negatively with their vertical expansion and high density. Deering Pavilion is already an eyesore. Combining those projects with a large, poorly zoned development at 605 Stevens will undoubtedly change this beautiful neighborhood dramatically forever. Have any of the other remaining tracts of land in Portland been considered for elderly housing? The large tract at Morrill's Corner sits undeveloped.

Along with my concerns about the visual scale, the aesthetics, and density (the possibility of 368 additional units in the neighborhood) of the 605 Stevens Avenue project, I am very worried about the impact of this project on traffic and safety. This corridor already is overburdened by university traffic and parking plus all the school buses and cars connected to the other public and private schools along Stevens. More cars, more emergency vehicles, and delivery trucks will only intensify an already dangerous situation for children walking to and from school along that busy street and on the side streets. As is, I see close calls between pedestrians and vehicles regularly.

Baxter Woods is a Portland treasure. I would like to know more about the environmental impact this zoning change will have on this beautiful tract of woodland. Has there been a study done? How will the wall of buildings affect the forest ecology? How will the wildlife be affected by a higher density of people? How will the quietude that so many people seek as they enter the woods be changed?

I also have questions about the future of McAuley High School on this property. It's confusing to me how the school will fit into this R5A zoning. Hopefully, this will be addressed at the public hearing. McAuley is a positive, contributing part of our neighborhood.

Thank you for the consideration of my concerns as you assess this zoning request.

Warm regards,

Clare Ruthenburg

From: David Webster <webster@pdtarchs.com>
To: "bab@portlandmaine.gov" <bab@portlandmaine.gov>, "jf@portlandmaine.gov" ...
Date: 5/12/2015 4:09 PM
Subject: 605 Stevens Avenue; Zoning Map and Land Use Code Text Amendment Application

Jean and Barbara:

I am unable to make tonight's public hearing regarding the 605 Stevens Avenue; Zoning Map and Land Use Code Text Amendment Application, but would like my comments included in the public record.

I live at 77 Rackleff Street and have lived in the Deering Center neighborhood for 30 years. Our son grew up in Deering Center and went to the Stevens Avenue's schools. Deering Center is my home.

I am an advocate of walkable and bikeable communities. Deering Center historically has been and is that kind place. The vibrancy of the Pleasant Avenue to Brentwood Street commercial area will be enhanced with the support of the applicant's planned retirement community. The businesses will have a larger market to serve. I believe that the proposed conversion and development of the 605 Stevens Avenue property will not only support the Deering Center community, but also strengthen it.

Anecdotally, my 90 year old mother lives in Oceanview in Falmouth. It is a retirement community made up of a similar demographic as those that will occupy this development. The choice of many of the people there is not to drive, but rather walk. Their focus is to keep moving and not be isolated. Deering Center would be a great place for them to live and at the same time, be an asset to the local community.

I believe this to be an example of good urban planning and a win-win for Deering. Those who object and can have many of their concerns addressed through the Planning Board review process. I urge you to support this change.

Thank you.

David C. Webster

From: "Jean Russo" <russo@maine.rr.com>
To: <JF@portlandmaine.gov>
Date: 5/12/2015 4:45 PM
Subject: McAuley House

Jean

Just a note to let you know as a lifetime Portland resident and as a 30 year Realtor and business owner in the Deering/Rosemont area, I am in favor of turning the Convent into housing for seniors. If the plan calls for a community within the property so that the residents do not need cars, that would be even better. There is a huge need for affordable senior housing in Portland. The need is only going to get greater need as the baby boomers who do not want to own homes anymore start looking for rentals. A community center within the property with a grocery store, salon, café, and a clothing or gift shop would be great.

I hope that there is not much opposition to this and that the City will push this through. If the developers need my input I am happy to provide that to them.

Best

Jean Russo, Realtor/Owner

www.harborcityrealty.com

775-1991

(distributed at 5.12.2015 PB Hearing)



Office of the Town Manager

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Richard Roedner

Town Manager

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May 12, 2015

Ms. Jean Fraser, Planner
Planning Division, City of Portland
389 Congress Street, 4th Floor
Portland, Maine 04101

Re: Seacoast Management

Dear Ms. Fraser:

I am the current Town Manager for the Town of Topsham, having previously served as the Planning Director from 2002 to 2104. Prior to Topsham, I was the Planner in Saco for 12 years.

John Wasileski, Seacoast Management, first became involved in Topsham in 1989, purchasing a project that had been assumed by the bank from a previous developer. That 20-acre project, valued at \$7 million and consisting of a 120-unit Lodge, has since grown into a multi-faceted, mixed use community, including over 450 dwelling units for retirement age adults, commercial parcels and a total valuation of over \$135 million. In addition, we have worked closely with John to create three Tax Increment Financing Districts covering the various projects to the benefit of both the Town and the developers.

Since I have been in Topsham, a good portion of my time has been spent working with John and his team, reviewing applications for his various projects. John and his staff have been very good applicants to deal with - they have provided information when requested, been willing to adapt their plans to conform to local regulations, and have worked with the Town to adapt regulations when that was necessary. I will note that John has lived up to every commitment he has made to the Town.

John has also been a model corporate citizen, assisting the town through various donations to local groups and non-profits. Along with John's involvement in the community, residents of the combined projects have proven to be good neighbors and are an important part of the overall Topsham community.

Two years ago, while we were trying to deal with an abandoned nursing home in our Historic District, we were approached by a team lead by Kevin Bunker of Developer's Collaborative, and including John Wasileski. Working closely with Kevin, we created an Affordable Housing TIF district, as well as a Revitalization Plan for this area, as support for the River Landing project, a 36-unit elderly housing facility. The new building, with architecture designed to fit into a neighborhood of homes dating to the 1800s, is set to open this summer. Topsham has been so

pleased with the cooperative effort from Kevin and his team, as well as the quality of the project, that we have nominated it for a Project of the Year Award from the Maine Association of Planners.

Should you have any specific questions about Topsham's experience with the members of the 605 Stevens Avenue Project Team, I would be very happy to discuss them with you, so please don't hesitate to give me a call.

Sincerely,



Richard Roedner
Town Manager

My name is Norm Buttrick, and I live on Clinton Street near Baxter Woods, & I am a member Of the Deering Ctr. N Assoc.

First of all, the proposed plan to build high rise condo's or apartments, will destroy Baxter' philosophy for the nature preserve and bird Sanctuary. The new buildings, cars and an influx of people will be destructive to the environment, as the woods have provided since it was donated to the people of Portland to enjoy as the last original woods in the City (some hemlocks and white oaks are between 150 and 250 years old).

Secondly, there are many Historic sites, such as the Francis O. J. Smith Mansion and Library, that could be threatened with the influx of so many people into the grounds, not to mention the natural habitat of animals and plant life as I noted above.

Thirdly, the streets in this part of the Deering neighborhood and Woodfords area would become more congested with traffic than it already is now. Parking is already tight or impossible with New England College next door.

Finally, I would hate to see McAuley High School forced to move from their present location along with its playing fields next to Baxter Woods. The woods are a wonderful educational benefit to the students as they have had an archaeological field school this past year, and science classes in the woods with teachers and Jeff Tarling (City Arborist) to prevent the destruction of trees from diseases.

NBUTTRI1@a
MAINE.RR.COM

Norman L. Buttrick
168 Clinton St.
Portland, Me.
04103

Hello, my name is Hilary Bassett from Greater Portland Landmarks. The St. Joseph's Convent Motherhouse of 1907-08 was designed by Chickering & O'Connell of Boston, and is one of the most impressive religious structures in Portland. We support the proposed rehabilitation of this important landmark building as senior housing, a project which will employ state and federal historic preservation tax credits. The tax credits facilitate rehabilitation of historic properties that are challenging to redevelop. The tax credit program requires projects to conform to high preservation standards overseen by the National Park Service and also requires them to be listed in the National Register of Historic Places. Developer Kevin Bunker has done sensitive, quality rehabilitation projects using preservation tax credits, including the conversion of the Nathan Clifford School (1907) in Portland into housing; and the preservation and adaptive reuse of the St. Hyacinth's Convent (1892) and School (1914) in Westbrook, also for housing. The latter project was recently recognized by Landmarks with a 2014 historic preservation honor award.

It will be important for any new development on the site to be compatible with the historic building, in scale, form and quality of materials. The standards for new construction in the City's historic preservation design manual provide excellent guidelines to achieve this goal.

May 12, 2015

Read by H Bassett P3 Hearing

STANDARDS: REVIEW OF CONSTRUCTION

5

New Construction Standards

Preamble

The placement of a new building or building addition into an existing historic context presents design problems often quite different from those for new construction on open sites. The challenge, simply put, is one of designing a building which is both distinct from and compatible with the buildings that surround it.

Striking a balance between continuity and change is especially important within historic districts. On the one hand, a commitment to historic preservation should not stifle dynamic, creative contemporary architecture. On the other hand, ill-conceived new construction can easily diminish the visual qualities which led to an historic district's special designation.

The purpose of the following standards is to provide guidance in 1) identifying the visual qualities of a given site's context and 2) assessing whether or not a proposed design is likely to compliment that context. The replacement of historic fabric with new construction can, especially in the aggregate, alter the appreciation of an area as a historic district. Therefore, new construction in such a setting must be carried out with extreme care and respect for that context.

The central idea behind good design in a historic context is a simple one. To a large degree, the scale, mass, orientation and articulation of an infill building or addition should be compatible with that of the buildings that surround it. Broadly stated, compatibility refers to the recognition of patterns and characteristics which exist in a given setting, and a responsiveness in new design or renovation which respects these established patterns and characteristics. Although similarity of design is one way of achieving compatibility in a historic context, a creative and distinctly contemporary

design response is both permitted and encouraged. The modern designer is allowed the freedom of individual expression -- within parameters established by the new building's context.

While a specific solution for a given setting cannot be anticipated in a simple set of guidelines, there are a number of building characteristics which can be used to gauge visual compatibility of new construction in an existing context. These characteristics are:

Scale and Form

Height.
Width.
Proportion of principal facades.
Roof shapes.
Scale of the structure.

Composition of Principal Facades

Proportion of openings.
Rhythm of solids to voids in facades.
Rhythm of entrance porch and other projections.
Relationship of materials, texture and color.
Signs, canopies and awnings.

Relationship to the street

Walls of continuity.
Rhythm of spacing and structures on streets.
Directional expression of principal elevations.

PC 34

May 12, 2015

To: City of Portland, Planning Board

Re: 605 Stevens Avenue, zone change

From: Bobbi Cope, 172 Concord Street

Yesterday I submitted a letter to you from my lawyer. I ask that the serious questions and concerns she raised about the proposed R5A's inconsistencies with the Comprehensive Plan be reviewed by the city's lawyer before you recommend the zone change to city council.

Additionally, I want to say that I am standing here tonight, opposing this zone change from the bottom of my heart. I have had the privilege and honor to live almost literally in the shadow of the dome of the Motherhouse for all of my sixty years. My sisters and I walked to St. Joe's and then McAuley. My granddaughter, Daisy, lives in the house I grew up in. She is the sixth generation of my family to live in that house. We have chosen, generation after generation, to stay here because it's comfortable, safe, familiar, and friendly. You can walk to school, the library, the butcher, the ice cream shop. You ride your bike up to the playground, walk your dog in the woods, visit your aunts and uncles, your cousins, your grandparents. We have close friendships with many other similar families that have been here for years too. And there are new faces and young families who deliberated on where to buy a house and they chose Deering Center for all the same reasons.

I am sympathetic to the need for senior housing but, this location cannot handle the density that is being proposed for the litany of reason you've heard repeatedly over the last few months. There are other areas in the city that are suitable for such a project and have the support of the neighbors. The 802 Ocean Avenue proposal is a good example of a developer working in harmony with the community to accommodate the need for senior housing.

The neighborhood is in strong opposition. I've spoken to several senior counselors who live in the neighborhood, one or two who are here tonight, and they agree. I feel strongly that this unique, historical property presents us with an opportunity to make something wonderful here. We are trying to figure out what to do with the Motherhouse - a big, old building that was once home to hundreds of women. In turn, we need to consider what would become of five or six huge buildings when they are vacated by the baby boomers. The property was never on the open market and has not been sold yet. There are possibilities that haven't even been considered. How about a world class all girls boarding school, an urban farm, expansion of Baxter Woods, orchards, community gardens, a retreat center, a museum? I'm sure there are many more ideas too.

Please turn your attention to the intangibles that matter to the people who live here. These people deserve at least as much consideration as you are giving to the applicant's need to meet tax credit deadlines. Obviously from my perspective I have the pleasure of being able to look back into the past and treasure the rich history of my family in this neighborhood. I want the decisions that are made here tonight to be characteristic of a quality, long view into the future.

from Bobbi Cope
May 12 2015 Hearing

PC 35

NIH Senior Health

Built with You in Mind

[Home](#) > [Health Topics A-Z](#) > [Older Drivers: How Aging Affects Driving](#)

The information in this topic was provided by the National Highway Traffic Safety Administration

Topic Last Reviewed: March 2015

Older Drivers

How Aging Affects Driving

As people get older, their driving patterns change. Retirement, different schedules, and new activities affect when and where they drive. Most older adults drive safely because they have a lot of experience behind the wheel. But when they are involved in crashes, they are often hurt more seriously than younger drivers. Age-related declines in vision, hearing, and other abilities, as well as certain health conditions and medications, can affect driving skills.



Click for more information

Changes in Driving Habits

When people retire, they no longer drive to work. With more leisure time, they may start new activities, visit friends and family more often, or take more vacations. Like drivers of any age, they use their vehicles to go shopping, do errands, and visit the doctor. Driving is an important part of staying independent.

Most people 70 and older have drivers' licenses. They tend to drive fewer miles than younger drivers. But, they are also keeping their licenses longer and driving more miles than in the past, often favoring local roads over highways. As the overall population ages, there will be more older drivers on the road.

A Complex Task

Driving is a complicated task. It requires people to see and hear clearly; pay close attention to other cars, traffic signs and signals, and pedestrians; and react quickly to events. Drivers must be able to accurately judge distances and speeds and monitor movement on both sides as well in front of them.



Click for more information

It's common for people to have declines in visual, thinking, or physical abilities as they get older. As a result, older drivers are more likely than younger ones to have trouble in certain situations, including making left turns, changing lanes, and navigating through intersections.

Common Mistakes

Common mistakes of older drivers include

- failing to yield the right of way
- failing to stay in lane
- misjudging the time or distance needed to turn in front of traffic
- failing to stop completely at a stop sign
- speeding or driving too slowly.

Older Drivers and Crashes

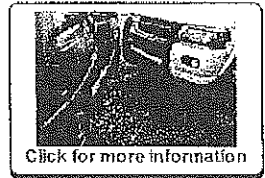
Driving errors can lead to traffic accidents, injuries, and death. The risk of crashes rises with age, especially after age 75. Studies show that older drivers are more, and less,

Circulated by Catherine Fewell at 5-12-15 PB (Haring) (Other info on this issue was circulated by Mrs. Church and given to Chris Traffic Eng. Reviewer)

PL35
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likely to be involved in certain types of crashes than other drivers. Older drivers are less likely to be involved in crashes related to alcohol use, speeding, and driving at night. But they are more likely to get into crashes.

- at intersections (usually in the vehicle that is struck)
- in which the front of one vehicle hits the side of another vehicle
- where the older driver is merging and the other vehicle is traveling faster or is in the older driver's blind spot



For recent statistics on the rate of injuries from crashes among older drivers, see [Traffic Safety Facts 2012: Older Population](#). (National Highway Traffic Safety Administration).

Crashes Down Among Older Drivers

Fortunately, the rate of crashes among adults 65 and over has decreased in recent years. Research suggests that this decline is due to a number of factors, including older adults' better health, safer cars, and safer roads. In addition, older drivers' ability to "police" themselves — like not driving at night — and stricter state laws for renewal of driver's licenses may help.

Most traffic deaths of older drivers occur during the daytime, on weekdays, and involve other vehicles. Older adults are more susceptible to death or serious injury in a crash if they are physically frail, but the good news is that older people are more likely to survive crashes than in the past.

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PC 36

Lisa Flanagan

121 Pleasant Avenue

Portland, ME 04103

May 20, 2015

Mayor Brennan, Members of the Planning Board and the City Council:

When thinking about urban planning, the most important tradition to uphold is The Common Good. When we let the Common Good guide decisions regarding the proposed development of the Sisters of Mercy Mother House, we find ideas about urban in-fill development exist upon which we can all agree. Primary among these are safety, preservation of quality of life, and smart development. Swaths of land this size are limited and to fall hastily for the first deal, fearing no other will arrive, is just insecure or worse -naïve.

Currently, I live at 121 Pleasant Avenue. I grew up in the house, moved out-of-state for two decades, returned to the neighborhood, and recently bought the family house. The idea of letting my kids ride their bikes independently in the neighborhood or walk through Baxter Woods and Evergreen, as I had, was fundamental to my choice to return. Walking to school, frequenting Pat's or The Quality Shop, and having a day care I could push a stroller to were luxuries unavailable in the suburbs or other neighborhoods within the city.

So what does this have to do with Mr. Wasileski's vision for the area? I think his planned development of the playing fields calling for over 330 units would impinge upon many of the neighborhood qualities that brought me back to Deering. His representatives spoke at the May 12th planning meeting of how Wasileski residents would be attracted to all the amenities of the area. Which amenities would those be? Daycares? K-12 schools? Pat's restaurant -currently inaccessible to the disabled? Grocery stores? Perhaps not. So this would mean folks would have to travel by public transport or more likely car to get to super markets, doctors' offices, Osher Life Long Learning at USM, or the library. Cue the traffic - not only the number of cars but also the peculiarities concomitant to aging drivers. This heavy use would be compounded by rescue vehicles responding to the multitude of falls that inevitably come with senior housing. Stevens Avenue, already busy with school traffic, would become another Forest Avenue-a non-crossable thoroughfare that makes walking to the Boulevard, dance classes, and fish markets nearly impossible for adults- forget seniors, the disabled, and children.

Baxter Woods is another neighborhood asset. Perhaps this is the amenity about which his people spoke. Yet with the blue-sky impingement and the non-permeable surface runoff that comes with parking lots ringing the buildings, the woods too would seem imperiled. We already witnessed changed runoff

reflects comments made 5.12.15 PBH.

patterns after the forest was cleared for ball fields. The vernal pools, trees, and paths may all be adversely influenced.

So what is appropriate for this beautiful and historic building? Perhaps dwellings for younger people who want to become an integrated into the neighborhood fabric. Dental students and new immigrants? Young families waiting to buy houses? Classroom spaces for UNE or perhaps a respite care facility where seniors aging in place could go for all their care needs in one spot. Or maybe a Maine Med-Tufts campus for geriatrics with Park Danforth, Deering Pavillion, and Canco Woods already at hand. I moved here after a decade in Cambridge, Massachusetts where during the 1990s garages and backyards became new housing, "nice gentlemen" bought older women's homes and apartments, moved them into Youville House for seniors, and flipped the properties. The housing remained stock tight and expensive. This may happen to Portland as well. I think looking at what Cambridge and other desirable cities learned will be an important lesson. Rather than being a NIMBY complaint, this letter is a request that the Board and the Council think hard about neighborhoods and the assets that are not quantifiable. Just as Deering Center protested the "concept restaurant" Dunkin Donuts and welcomed Siano's a few years ago, I would accept development more in keeping with the historical mission of the Sisters of Mercy, more in keeping with the aesthetic and health values of the open space, and more in keeping with the nature of this family and education-centric enclave of the city.

George Mitchell said the key to negotiation is humility. I write this humbly yet with knowledge of the neighborhood, of cities undergoing a renaissance, as a daughter who lived with an 89-year-old father the last year of his life, as the greeter of Engine 3 at 3:30 am on many occasions, and as a mother of three. I respectfully hope your thinking is slow and weighs all these issues while the Aristotelian and Augustinian value of the Common Good informs your final decision.

Respectfully,

Lisa Flanagan

circulated at 5.12.15 PBHearing
by Ms Church - taken
by Traffic Engineer at that time.

PC 37,

PC 37

★★★★
NHTSA
www.nhtsa.gov



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

TRAFFIC SAFETY FACTS

2012 Data

DOT HS 812 005

Revised May 2014

Older Population

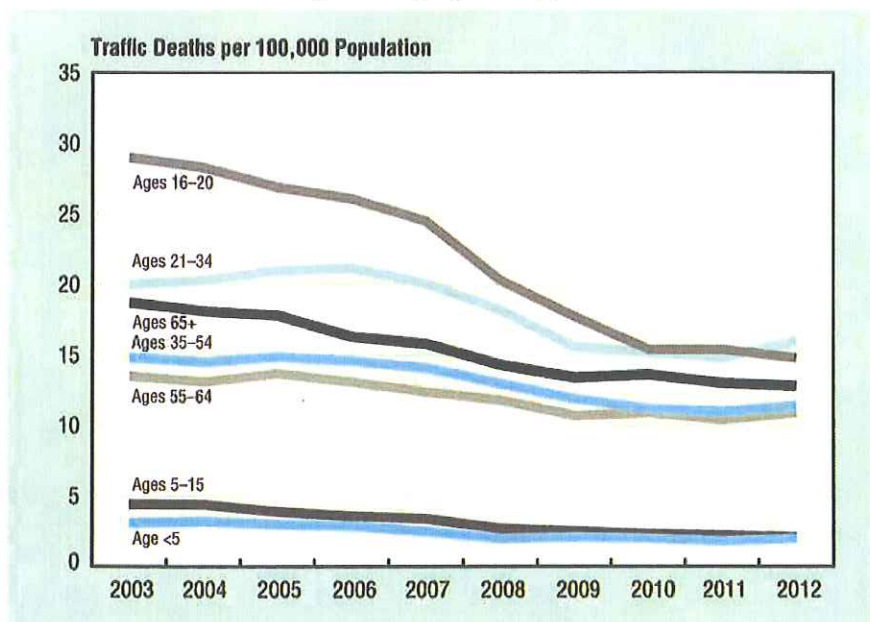
[from Ms Church at PBH 5.12.2015;
borrowed by Traffic Engineer Reviewer]

In 2012, there were 5,560 people 65 and older killed and 214,000 injured in motor vehicle traffic crashes. These older people made up 17 percent of all traffic fatalities and 9 percent of all people injured in traffic crashes during the year. Compared to 2011, fatalities among people 65 and older increased by 3 percent. Among people injured in this age group there was a 16-percent increase from 2011.

In 2012, 14 percent of the total U.S. resident population (43.1 million people) were 65 and older. The older population fatality rate per 100,000 U.S. resident population steadily declined from 18.7 in 2003 to 12.9 in 2012 (Figure 1).

*In 2012, 17 percent of
all traffic fatalities in
the United States were
among people 65 and
older.*

Figure 1
Motor Vehicle Traffic Fatality Rates by Age Group, 2003–2012



Among the 65-and-older age group from 2003 to 2012, the total population increased by 20 percent (males increased by 26% and females increased by 16%). However, as seen in Table 1, driver fatalities for this age group declined by 15 percent (decreased for males by 10% and for females by 26%); motorcyclist fatalities increased by 201 percent (males increased by 194% and females increased by 333%). Furthermore, among the 65-and-older age group from 2003 to 2012, pedalcyclist fatalities increased by 80 percent (males increased by 83% and females by 50%).

Table 1
Involvement of the Older Population in Traffic Fatalities by Gender, 2003 and 2012

	2003			2012			Percentage Change, 2003-2012	
	Total	Age 65+	Percentage of Total	Total	Age 65+	Percentage of Total	Total	Age 65+
Population (Thousands)								
Total	290,108	35,864	12.4	313,914	43,145	13.3	8	20
Male	142,429	14,974	10.5	154,492	18,815	12.2	8	26
Female	147,679	20,889	14.1	159,422	24,330	15.3	8	16
Drivers Involved in Fatal Crashes								
Total*	58,517	6,445	11.0	45,337	5,744	12.7	-23	-11
Male	42,586	4,435	10.4	33,124	4,088	12.3	-22	-8
Female	15,211	2,010	13.2	11,509	1,655	14.4	-24	-18
Driver Fatalities								
Total*	26,779	4,067	15.2	21,394	3,449	16.1	-20	-15
Male	19,955	2,719	13.6	16,525	2,456	14.9	-17	-10
Female	6,821	1,348	19.8	4,866	993	20.4	-29	-26
Total Traffic Fatalities								
Total*	42,884	6,698	15.6	33,561	5,560	16.6	-22	-17
Male	29,346	3,775	12.9	23,808	3,451	14.5	-19	-9
Female	13,532	2,923	21.6	9,733	2,107	21.6	-28	-28
Occupant Fatalities								
Total*	37,341	5,649	15.1	27,869	4,486	16.1	-25	-21
Male	25,425	3,163	12.4	19,722	2,742	13.9	-22	-13
Female	11,912	2,486	20.9	8,133	1,744	21.4	-32	-30
Pedestrian Fatalities								
Total*	4,774	981	20.5	4,743	935	19.7	-1	-5
Male	3,274	556	17.0	3,285	590	18.0	0	6
Female	1,499	425	28.4	1,454	343	23.6	-3	-19
Passenger Vehicle Occupant Fatalities								
Total*	32,271	5,388	16.7	21,667	3,991	18.4	-33	-26
Male	20,899	2,940	14.1	14,138	2,297	16.2	-32	-22
Female	11,370	2,448	21.5	7,521	1,694	22.5	-34	-31
Motorcyclist Fatalities								
Total	3,714	117	3.2	4,957	352	7.1	33	201
Male	3,342	111	3.3	4,499	326	7.2	35	194
Female	372	6	1.6	456	26	5.7	23	333
Pedalcyclist Fatalities								
Total	629	45	7.2	726	81	11.2	15	80
Male	556	41	7.4	634	75	11.8	14	83
Female	72	4	5.6	90	6	6.7	25	50

*Total includes unknown gender.

Drivers

There were 35 million licensed older drivers in 2011 (2012 data not available)—a 21-percent increase from 2002. In contrast, the total number of licensed drivers increased by only 9 percent from 2002 to 2011. Older drivers made up 16 percent of all licensed drivers in 2011, compared with 15 percent in 2002.

As shown in Table 2, of all drivers, older drivers involved in fatal crashes had the lowest proportion of drivers with a blood alcohol concentration (BAC) of .08 grams per deciliter (g/dL) or higher.

Older drivers made up 16 percent of all licensed drivers in 2011, compared with 15 percent in 2002.

Table 2

Age and Alcohol of Drivers Involved in Fatal Crashes, 2012

Age Group (Years)	Drivers Involved in Fatal Crashes		
	Total	BAC= .08+	
		Number	Percent of Total
<16	121	10	8
16-20	4,211	758	18
21-34	13,688	4,120	30
35-54	14,912	3,372	23
55-64	5,899	805	14
65+	5,744	413	7
Total	*45,337	9,678	21

*Includes 762 drivers of unknown age.

Thirteen percent fewer people were killed in crashes involving older drivers from 6,805 in 2003 to 5,894 in 2012. While the overall trend shows a decline for those 10 years, the number of people killed in crashes involving older drivers increased in 2012 by 5 percent compared to 2011 (Table 3).

Table 3

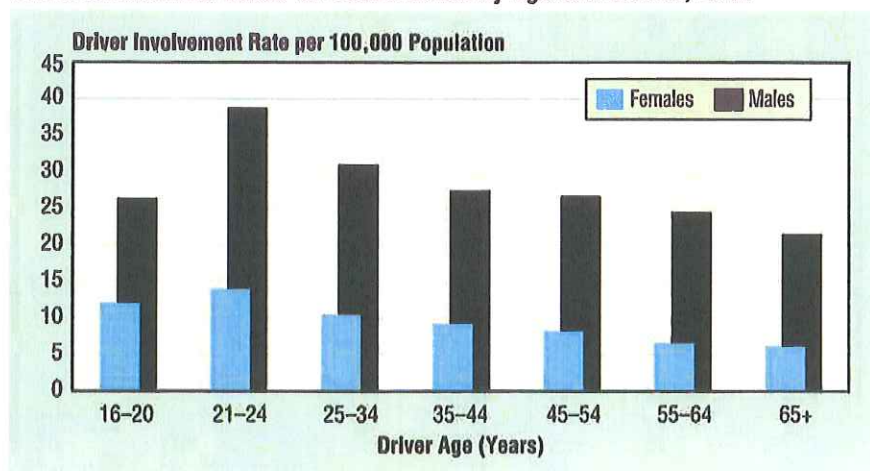
Fatalities in Crashes Involving Drivers 65 and Older, 2003-2012

Year	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Fatalities	6,805	6,585	6,647	6,334	6,169	5,825	5,613	5,782	5,636	5,894

Fatalities in crashes involving older drivers declined by 13 percent from 2003 to 2012.

Most traffic fatalities involving older drivers in 2012 occurred during the daytime (75%), occurred on weekdays (69%), and involved other vehicles (64%). Among drivers involved in fatal crashes in 2012, older drivers had the lowest involvement rate per population as compared to other driver age groups. The involvement rate for male drivers (65+) was 21.73 and the involvement rate for female drivers (65+) was 6.80 (Figure 2).

Figure 2

Driver Involvement Rates in Fatal Crashes by Age and Gender, 2012

For older pedestrians, 68 percent of fatalities in 2012 occurred at non-intersection locations.

Pedestrians

For older people, 68 percent of pedestrian fatalities in 2012 occurred at non-intersection locations. For other pedestrians, 81 percent of fatalities occurred at non-intersection locations.

Among all fatally injured adult pedestrians, older pedestrians had the lowest proportion of pedestrians with BACs of .08 g/dL or higher (Table 4).

Table 4

Pedestrian Fatalities by Age Group and BAC, 2012

Age Group (Years)	Total	BAC= .08+	
		Number	Percent of Total
<16	292	7	2
16-20	265	68	25
21-34	1,028	480	47
35-54	1,475	704	48
55-64	724	240	33
65+	935	99	11
Total	*4,743	1,608	34

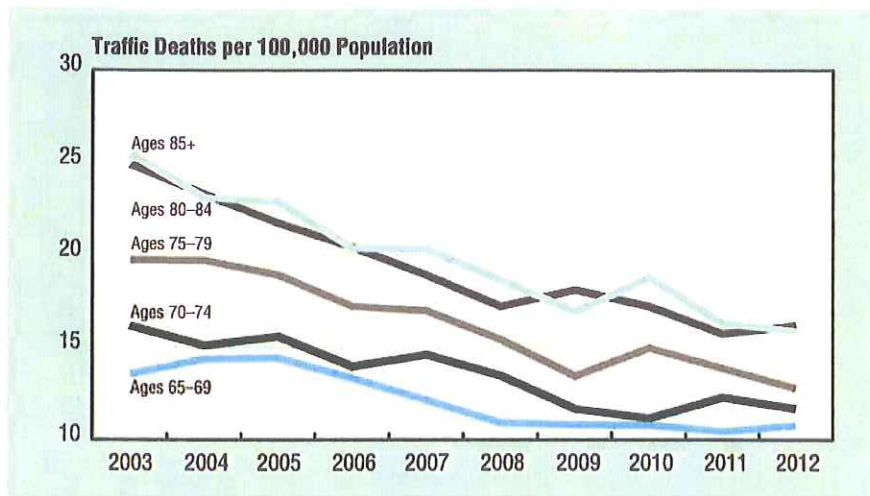
*Includes 24 pedestrian fatalities of unknown age.

Older Population Age Groups

In 2012, among the older population, the fatality rate for the 80-84 age group was 16.39 per 100,000 population, which was higher than any other older age group. The fatality rate for the 85+ age group declined by 37 percent, from 25.46 in 2003 to 15.98 in 2012 (Figure 3).

Figure 3

Motor Vehicle Traffic Fatality Rates Among Older Populations by Age Group, 2003-2012



For more information:

Information on traffic fatalities is available from the National Center for Statistics and Analysis (NCSA), NVS-424, 1200 New Jersey Avenue SE., Washington, DC 20590. NCSA can be contacted at 800-934-8517 or via the following e-mail address: ncsaweb@dot.gov. General information on highway traffic safety can be accessed by Internet users at www.nhtsa.gov/NCSA. To report a safety-related problem or to inquire about motor vehicle safety information, contact the Vehicle Safety Hotline at 888-327-4236.

Other fact sheets available from the National Center for Statistics and Analysis are *Alcohol*, *African American*, *Bicyclists and Other Cyclists*, *Children*, *Hispanic*, *Large Trucks*, *Motorcycles*, *Occupant Protection*, *Overview*, *Pedestrians*, *Race and Ethnicity*, *Rural/Urban Comparisons*, *School Transportation-Related Crashes*, *Speeding*, *State Alcohol Estimates*, *State Traffic Data*, and *Young Drivers*. Detailed data on motor vehicle traffic crashes are published annually in *Traffic Safety Facts: A Compilation of Motor Vehicle Crash Data from the Fatality Analysis Reporting System and the General Estimates System*. The fact sheets and annual Traffic Safety Facts report can be accessed online at www.nrd.nhtsa.dot.gov/CATS/index.aspx.

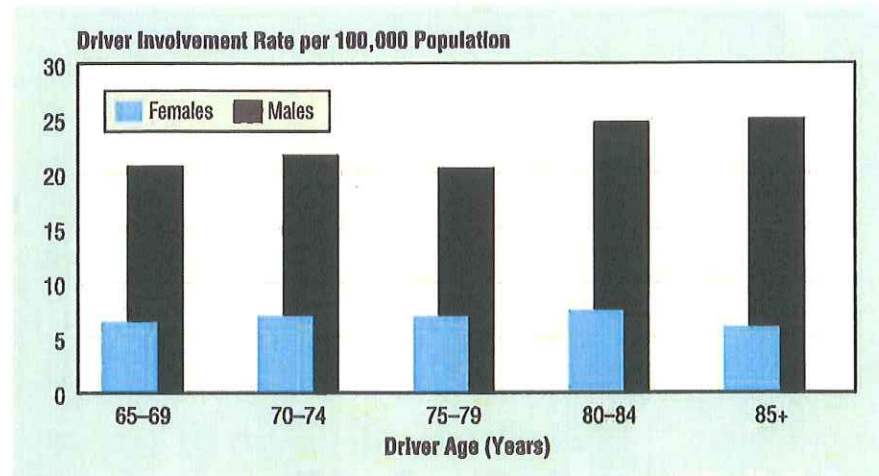


U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

In 2012, fatal crash driver involvement rates per 100,000 population among older male drivers was highest (24.95) in the 85-and-older age group; and among older female drivers was highest in the 80-84 age group (7.73) (Figure 4).

Figure 4

Involvement Rates for Older Drivers in Fatal Crashes by Age Group and Gender 2012



Driver Involvement by State and Age Group

Table 5 shows driver involvement in fatal traffic crashes by State and driver age group. Among all States, driver involvement in 2012 ranged from highest (4,564) to lowest (20) depending on the size and population of the State. Driver involvement in fatal crashes was highest in Texas (4,564), followed by California (3,811) and Florida (3,412), and lowest in the District of Columbia (20). Driver involvement in fatal crashes in 2012 among driver (65+) ranged from 474 (highest) to 0 (lowest). Driver involvement in fatal crashes in the 65+ age group was highest in Florida (474), followed by California (410) and Texas (393), and lowest in the District of Columbia (0).

Fatalities by State and Age Group

Table 6 shows fatalities in Traffic Crashes by State and Age Group. Among all States, fatalities in motor vehicle traffic crashes in 2012 ranged from highest (3,398) to lowest (15) depending on the size and population of the State. Fatalities in motor vehicle traffic crashes were highest in Texas (3,398), followed by California (2,857) and Florida (2,424), and lowest in the District of Columbia (15). Fatalities in the 65+ age group were highest in Florida (450), followed by California (443) and Texas (401), and lowest in the District of Columbia (1).

Table 5
Driver Involvement in Fatal Traffic Crashes by State and Age Group, 2012

State	Total*	Age 65+	Percentage of Total	Age Group (Years)								
				<16	16-20	21-34	35-54	55-69	70-74	75-79	80-84	85+
Alabama	1,214	152	12.5	3	136	374	366	222	47	22	16	15
Alaska	83	12	14.5	0	7	30	22	16	2	2	2	2
Arizona	1,088	121	11.1	1	98	314	363	192	29	16	15	17
Arkansas	734	100	13.6	4	64	216	246	136	29	14	15	7
California	3,811	410	10.8	1	323	1,235	1,237	634	79	72	65	49
Colorado	630	74	11.7	3	63	180	198	123	14	10	13	12
Connecticut	332	50	15.1	0	21	110	100	60	14	7	9	6
Delaware	146	22	15.1	0	15	45	48	22	2	5	2	3
Dist of Columbia	20	0	0.0	1	0	7	6	3	0	0	0	0
Florida	3,412	474	13.9	9	290	1,048	1,059	554	127	95	70	70
Georgia	1,676	205	12.2	4	154	522	549	291	51	36	31	19
Hawaii	175	18	10.3	0	10	44	77	34	2	3	1	1
Idaho	244	37	15.2	1	16	67	87	51	6	2	6	8
Illinois	1,322	156	11.8	3	115	435	420	202	29	26	27	29
Indiana	1,107	153	13.8	3	127	304	360	181	42	29	21	24
Iowa	491	65	13.2	3	46	130	157	101	14	13	15	9
Kansas	527	92	17.5	2	66	139	160	87	19	14	22	16
Kentucky	1,023	136	13.3	3	85	295	372	179	35	25	12	13
Louisiana	944	101	10.7	0	99	319	307	138	26	19	13	4
Maine	215	40	18.6	1	20	62	65	36	10	11	3	7
Maryland	702	80	11.4	1	56	234	233	109	19	15	14	6
Massachusetts	449	69	15.4	0	42	132	139	81	10	11	12	15
Michigan	1,325	196	14.8	4	133	378	407	249	50	27	31	24
Minnesota	537	78	14.5	0	47	151	170	115	13	10	9	20
Mississippi	684	103	15.1	4	60	204	229	121	23	18	15	9
Missouri	1,096	137	12.5	5	124	316	388	165	27	23	20	17
Montana	250	28	11.2	4	24	78	77	49	11	3	1	1
Nebraska	284	37	13.0	4	34	82	89	46	12	2	7	7
Nevada	355	48	13.5	0	35	110	109	68	15	8	5	2
New Hampshire	147	23	15.6	0	14	32	53	33	6	3	3	3
New Jersey	816	118	14.5	0	67	245	270	133	27	24	20	15
New Mexico	471	65	13.8	1	43	128	170	64	19	14	12	7
New York	1,569	219	14.0	1	137	443	519	251	55	31	41	42
North Carolina	1,732	220	12.7	8	162	504	587	307	52	44	32	23
North Dakota	218	23	10.6	4	19	59	80	40	7	6	0	3
Ohio	1,573	224	14.2	3	147	443	542	266	53	39	26	41
Oklahoma	939	117	12.5	4	76	299	316	167	34	18	11	6
Oregon	426	65	15.3	1	38	101	141	96	18	8	15	3
Pennsylvania	1,797	266	14.8	2	192	524	576	312	53	47	36	33
Rhode Island	87	13	14.9	0	4	26	36	10	4	3	3	1
South Carolina	1,153	130	11.3	8	118	327	401	192	32	27	13	16
South Dakota	174	22	12.6	3	16	46	61	34	6	4	3	1
Tennessee	1,365	185	13.6	3	141	393	463	242	41	29	24	23
Texas	4,564	393	8.6	12	432	1,562	1,504	678	112	63	51	34
Utah	295	29	9.8	2	31	99	93	43	9	8	4	2
Vermont	96	15	15.6	0	7	28	30	19	7	0	3	1
Virginia	1,026	147	14.3	0	96	292	341	184	34	25	28	13
Washington	596	69	11.6	0	41	185	214	108	16	8	6	14
West Virginia	450	62	13.8	2	30	120	159	93	18	8	13	6
Wisconsin	806	125	15.5	3	78	222	269	150	23	23	21	16
Wyoming	161	20	12.4	0	12	49	47	39	2	4	3	3
U.S. Total	45,337	5,744	12.7	121	4,211	13,688	14,912	7,726	1,385	974	840	718
Puerto Rico	432	39	9.0	0	43	181	111	51	17	4	4	1

*Includes drivers of unknown age. The United States had 762 drivers of unknown age.

Table 6
Fatalities in Traffic Crashes by State and Age Group, 2012

State	Total*	Age 65+	Percentage of Total	Age Group (Years)								
				<18	16-20	21-34	35-54	55-69	70-74	75-79	80-84	85+
Alabama	865	133	15.4	34	100	237	237	162	38	23	16	17
Alaska	59	8	13.6	3	6	20	13	11	2	1	1	2
Arizona	825	116	14.1	48	82	235	231	142	19	18	24	22
Arkansas	552	88	15.9	29	47	156	155	102	18	16	19	10
California	2,857	443	15.5	102	264	861	809	498	69	86	89	75
Colorado	472	76	16.1	16	47	131	134	88	16	9	16	15
Connecticut	236	45	19.1	5	15	71	61	48	10	8	10	7
Delaware	114	20	17.5	3	9	37	37	13	1	6	4	4
Dist of Columbia	15	1	6.7	1	3	4	4	2	0	0	0	1
Florida	2,424	450	18.6	66	207	647	715	424	109	95	69	88
Georgia	1,192	191	16.0	50	100	334	363	208	39	33	31	28
Hawaii	126	18	14.3	4	16	35	35	27	2	3	1	3
Idaho	184	37	20.1	9	17	44	56	28	9	2	10	9
Illinois	956	162	16.9	41	91	295	251	154	26	28	35	35
Indiana	779	139	17.8	31	88	214	208	128	32	31	21	24
Iowa	365	67	18.4	14	31	93	103	71	13	14	16	10
Kansas	405	84	20.7	26	46	97	111	61	15	13	17	19
Kentucky	746	117	15.7	33	69	203	231	127	28	25	14	16
Louisiana	722	96	13.3	42	70	209	224	113	20	23	13	6
Maine	164	35	21.3	4	21	46	42	21	7	9	4	10
Maryland	505	74	14.7	18	56	145	143	85	17	15	15	8
Massachusetts	349	83	23.8	8	39	91	85	64	7	15	20	20
Michigan	938	167	17.8	39	95	274	236	177	34	22	33	28
Minnesota	395	81	20.5	16	46	105	104	66	13	8	8	29
Mississippi	582	100	17.2	37	50	169	166	92	21	20	15	11
Missouri	826	125	15.1	29	84	236	263	125	24	27	19	19
Montana	205	22	10.7	11	20	64	58	35	11	1	1	4
Nebraska	212	34	16.0	17	32	57	52	24	11	4	9	6
Nevada	258	54	20.9	9	26	61	57	71	19	5	6	4
New Hampshire	108	23	21.3	2	13	21	32	23	6	4	4	3
New Jersey	589	120	20.4	19	50	168	154	108	21	29	21	17
New Mexico	365	63	17.3	12	29	90	129	54	18	13	9	9
New York	1,168	256	21.9	46	95	302	322	192	60	31	53	59
North Carolina	1,292	204	15.8	63	112	331	413	223	57	43	25	24
North Dakota	170	20	11.8	9	19	47	56	24	6	6	1	2
Ohio	1,123	209	18.6	33	111	279	350	193	48	36	24	49
Oklahoma	708	110	15.5	15	59	215	214	124	32	19	15	15
Oregon	336	65	19.3	9	25	79	86	90	18	7	15	7
Pennsylvania	1,310	254	19.4	43	146	363	358	219	44	41	43	53
Rhode Island	64	10	15.6	2	5	16	26	7	3	2	2	1
South Carolina	863	118	13.7	28	87	242	271	150	21	27	16	18
South Dakota	133	19	14.3	11	13	34	40	22	5	5	2	1
Tennessee	1,014	175	17.3	29	103	252	313	198	37	30	23	29
Texas	3,398	401	11.8	206	329	1,059	994	518	105	57	69	47
Utah	217	24	11.1	15	21	59	68	32	7	5	4	6
Vermont	77	14	18.2	2	4	24	18	16	5	1	4	3
Virginia	777	136	17.5	23	80	197	230	144	31	25	29	17
Washington	444	74	16.7	15	42	114	139	78	13	8	15	18
West Virginia	339	62	18.3	13	24	91	103	63	17	6	13	9
Wisconsin	615	121	19.7	18	69	146	190	101	24	21	24	22
Wyoming	123	16	13.0	5	11	38	28	32	3	3	1	2
U.S. Total	33,561	5,560	16.6	1,363	3,224	9,338	9,718	5,778	1,211	979	948	941
Puerto Rico	347	58	16.7	9	32	102	86	61	19	11	7	4

*Total includes fatalities of unknown age. The United States had 61 fatalities of unknown age.

From: Derek Pelletier <dpellet@gmail.com>
To: <jf@portlandmaine.gov>
Date: 5/28/2015 9:02 AM
Subject: Re: Update: McAuley Place Development: dates for City Council Process

Dear Ms Fraser,

I'm writing to express my support for the proposed development at McAuley Place. I'm a parent and home-owner in Deering Center. My two kids go to Longfellow School. I don't have a problem with the proposed development as described in the May proposal forwarded to the Deering Center Neighborhood Association. Thank you.

Best,
Derek



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: McAuley Place

PROPOSED DEVELOPMENT ADDRESS:

605 Stevens Avenue and Walton Street

PROJECT DESCRIPTION:

Proposed full continuum of care Senior Retirement Community and Re-Purposing of the former convent "The Motherhouse" into affordable senior housing units.

CHART/BLOCK/LOT: 136 E006001 & (143 F004 144 B001)

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: Seacoast At Baxter Woods Associates, LLC Business Name, if applicable: Address: C/O OceanView , 20 Blueberry Lane City/State : Falmouth, ME Zip Code: 04105	Applicant Contact Information Work # C/O Matthew Teare Home# Cell # 207.837.2418 Fax# e-mail: mteare@highlandgreenlifestyle.com
Owner – (if different from Applicant) St Joseph's Convent & Hospital Name: C/O Sisters of Mercy of the Americas Address: Northeast Community, Inc. 15 Highland View Road City/State : Cumberland, RI Zip Code: 02864	Owner Contact Information Work # Attn: Sister Lindora Cabral Home# Cell # Fax# 207-333-6450 e-mail: lcabral@mercycne.org
Agent/ Representative Name: Frederic (Rick) Licht, PE, LSE, Licht Environmental Design, LLC Address: 35 Fran Circle City/State : Gray, Maine Zip Code: 04039	Agent/Representative Contact information Work # 207.749.4924 Cell # 207.749.4924 e-mail: rlicht@securespeed.net
Billing Information Name: Matthew Teare C/O The Highlands Address: 30 Governors Way City/State : Topsham, Maine Zip Code: 04086	Billing Information Work # 207.837.2418 Cell # 207.837.2418Fax# e-mail: mteare@highlandgreenlifestyle.com

Current Zoning Designation(s): R-5 Residential Zone

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.

Proposed Retirement Community within the current campus and re-development of the former St. Joseph's Convent

"Motherhouse" into 86-88 units of affordable senior housing. The existing St. Catherine's residence apartments will remain and allow forexpansion. McAuley High School will remain for the immediate future. See Cover Letter and Exhibit 6 for additional information.

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1" = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

(Exhibit 6 Conceptual Masterplan)

APPLICATION FEES:

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.
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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/764/Electronic-Plan-and-Document-Submittal>
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:
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March 04, 2015

J14.067

Barbara Barhydt
 Development Review Manager
 Planning and Urban Development Department
 Planning Division
 389 Congress Street, 4th Floor
 Portland, Maine 04101

**McAuley Place, 605 Stevens Avenue and Walton Street
 Request for Zoning Amendment
 (CBL 136 E006001, 143 F004000, 144 B001000)**

Dear Barbara:

On behalf of Sisters of Mercy of the Americas Northeast Community, Inc. (Sisters of Mercy) and Sea Coast at Baxter Woods Associates, LLC we are pleased to submit this request for a Zoning Text and Map Amendment for the Sisters of Mercy – Catherine McAuley High School Campus located off Stevens Avenue and Walton Streets in Portland.

Enclosed are one (1) hard copy of the following materials and PDF copies on an attached thumb drive:

- Cover Letter
- City of Portland Zoning Map/Text Amendment Application Form
- Map/Text Amendment Fee (\$3,000)
- Appendix A – Chart of a Continuum of Care Community
- Exhibit 1 – Right, Title & Interest (P&S Agreement)
- Exhibit 2 – Context Map
- Exhibit 3 - Site Photographs
- Exhibit 4 - Proposed Parcel Map
- Exhibit 5 - Proposed Zone Change Map
- Exhibit 6 - Conceptual Site Plan

1. INTRODUCTION

The Sisters of Mercy and John B. Wasileski representing Seacoast at Baxter Woods Associates, LLC are proposing to redevelop the historic St. Joseph's Convent and surrounding grounds into a continuum of care senior living community. The property, located off Stevens Avenue and Walton Streets contains 18.96 acres including the Catherine McAuley High School and fields, St. Joseph's Convent and St. Catherine's residence hall. The general concept is to offer seniors a choice of attractive, living arrangements and an array of support services so that they can remain healthy, active and independent. (*Appendix A* illustrates the components of a continuum of care community.) The highlight of the proposed plan is the re-purposing of the former St. Joseph's Convent "Motherhouse" into affordable dwelling units and common areas.

This type of development and community is uniquely suited for the challenges and opportunities offered by the Convent site. If properly designed and integrated, the existing Catherine McAuley

High School and the senior community will prosper together for decades to come. This success will result from the compatibility of the two communities and the creation of an attractive, unified campus.

The continuum of care senior community will include four main elements in addition to the McAuley High School. The heart of the community will be the renovated and expanded Convent or Motherhouse building into 88 affordable housing units and large common areas under the Maine Limited Liability Company - Motherhouse, LLC. A Low Income Housing Tax Credit (LIHTC) and Historic Tax Credit (HTC) are being pursued in support of this affordable housing initiative. The second element of the community will be the development of a Main Lodge for the McAuley Retirement Community proposed to include up to 60 independent living apartments with full congregate services and common areas. This phase also includes up to 32 connected semi-independent apartments connected to the Main Lodge with full access to all of the Main Lodge supporting congregate services and common areas.

The third component of the proposed development plan would provide for approximately 120 new senior independent living apartments located within attractive apartment buildings and clusters. Finally, to meet the transitional needs of a full continuum of care community, a 24-36 bed Assisted Living Facility is envisioned as either as a free standing structure or attached to the Motherhouse.

Two uses which will remain in use include the McAuley High School and St. Catherine's residence located off Walton Street. As noted above McAuley High School will remain for the immediate future. St. Catherine's will continue for a period of time to house retired Sisters and former priests with a long term plan for renovating and expanding the 18 unit apartment building into 38 market rate senior apartment units with full access to the campus amenities and activities.

In summary the project proposes a unified campus with:

- 88 affordable housing units within the Motherhouse.
- 232 apartment/congregate units
- 18 existing apartment units – St. Catherine's
- 24-36 assisted living units

The project will provide a wide variety of benefits. For the city and the community, it addresses several goals of Portland's comprehensive plan including the preservation of historic resources, redevelopment of buildings with currently unused residential potential, dense development and development that serves a diverse market including seniors. In general, senior communities are an excellent form of real estate development and a good neighbor. They are well-designed, attractive and quiet communities that generate little traffic. They also generate significant tax revenue for the city with little drain on city services.

Finally, it is important to note that the Sisters of Mercy have been searching for a new role of the Convent for well over a decade. For everyone involved in this difficult process, there is strong agreement that a senior living community is the best possible reuse plan for the Convent. The project will provide a financially stable reuse plan for the property and a compatible partner for the Catherine McAuley School.

2. PROJECT TIMELINE

The applicant is seeking approvals on a dual timeline – moving forward with the campus Zoning Amendments and Master Development Plan review simultaneous with the Motherhouse re-

development into 88 affordable apartments as a Level III Site Plan review. It will be critical for the LIHTC Application that the Motherhouse re-development secure Level III Site Plan Approvals by July 2015 in order to retain a strong position for the LIHTC application process. The applicant's team looks forward to working closely with staff to facilitate this process.

3. BACKGROUND AND HISTORY

The primary historic use of the buildings and site since the late nineteenth century was as a Convent. As such, it was the principal center of the educational, residential and spiritual life for the Sisters of Mercy in Portland. However, the property has served many other purposes and uses since first established in the early 1880s. This began with the establishment of a girl's school, known as St. Joseph's Academy, in 1881. St. Joseph's Academy was located in the current McAuley wing of the Motherhouse and is still part of the school today. The current Catherine McAuley High School building was completed in 1971 but the school, in one form or another, has been on the site since 1881.

Also in the early 1880's, the Sisters established St. Joseph's Home for Aged Women on the site. It was first housed in a temporary wooden structure on the site and then moved to the two-story brick structure known as St. Catherine's Hall in 1888. This building still stands along the north boundary of the property facing Walton Street. After the home for the aged was moved to downtown Portland in 1914, St. Catherine's Hall became the first St. Joseph's College in 1917. St. Catherine's was enlarged and remodeled in 1940 to accommodate additional classroom space, residential facilities and a chapel. In 1954, the college moved to Standish, Maine.

The site also housed the original St. Joseph's parish church around 1884. The church was eventually removed after a new church was constructed on a nearby site.

The central Motherhouse, the centerpiece of the site today, was constructed in two phases. The first phase, completed in 1909, included the central main block, north wing and chapel wing. In 1921, the south and rear wings were added. It was at this time that the Motherhouse was joined to the St. Joseph's Academy building by a two-story brick addition. Over the next 100 years, the Motherhouse was home to as many as 300 nuns. As the life-long home for many sisters, the building became a de facto senior living facility. This included a wing designed and devoted to nursing home level care for the sisters.

However, as has happened across the country and around the world, the number of sisters dropped dramatically over time. By the late 20th century, a Motherhouse and a campus that had served as a home, church, school and senior care facility needed a new purpose if it was going to continue its mission into the next century.

4. EXISTING USE AND ZONING

The 18.96 acre property is currently located within the R5 - Medium Density Residential District.

The Motherhouse continued to serve as a residence for the sisters until the summer of 2004. At that time, the few sisters remaining in the Motherhouse moved out to other facilities in the Portland area including the former Eunice Frye residential care center. Today, the first floor of the building is used as office space for the Sisters of Mercy. The Chapel is still used by the Sisters of Mercy and by the adjacent Catherine McAuley High School, but the upper floor residential rooms are vacant.

In the 1980s, St. Catherine's Hall was renovated from a residential dormitory type of use into 18 residential apartment units, several of which are occupied by Sisters of Mercy or other individuals with connections to the Sisters. The high school continues to function to this day and also uses space within the former St. Joseph's Academy building –the northern wing of the Motherhouse.

The Portland Land Use Code (LUC) Sec 14-116 for **R5 Zoning** – Purpose states: *"...for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unity development (PRUD) on substantially sized parcels. ...such PRUD development shall respond to the physical qualities of the site and complements the scale, character and style of the surrounding neighborhood."*

The current R5 zoning was adopted decades after the creation of the Sisters of Mercy campus and reflects the development pattern of the surrounding neighborhood that grew up around the campus. As a result, the Sisters of Mercy campus has never been consistent with or even envisioned by the current zoning.

5. PROPOSED ZONING TEXT AND MAP AMENDMENT

A. Proposed Zoning Map Amendment To R-6A –Residential Zone (See *Exhibit 6*):

The applicant is proposing to develop a comprehensive and coordinated institutional/residential based retirement community land use plan which mirrors the proposed zoning changes of neighbors to the south (Deering Pavilion) and those several blocks to the north (Park Danforth) to provide quality senior residential living opportunities which are in demand off-peninsula.

The applicant seeks a Zoning Text and Map Amendment Change from the current R5 Medium Residential Zone to an R-6A Residential Zone with supporting amendments to the R-6A District Ordinance Division 7 - Sections 14-135 to 14-140 as noted below and herein. *Excepted from the requested zone change is the proposed St. Catherine's lot which will remain as R-5.*

In order to consider the rationale and reasoning for the proposed Zoning Change it is important to understand both the history and current uses of the McAuley Campus and the future vision as it relates to the current and future neighborhoods.

1. The R5 Zone is intended to "... provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density."

While the R5 Zone in purpose would satisfy the proposed re-purposing and re-development of the current campus the specific dimensional and land use provisions of Zoning District **R6-A** more specifically suit the proposed development plan. For this reason, the applicant is requesting both a **Text and Map Amendment to change the current McAuley Campus from R5 to R6-A.**

The 18-unit St. Catherine's residence hall is not being considered for the zone change as this must remain as a separate lot retained by the Sisters of Mercy and there is insufficient area to meet the 4-acre minimum lot size. A separate 1.86 acre lot meeting current R-5 density requirements will be created for St. Catherine's as shown on the attached exhibits and left in the R-5 zoning district.

2. The **R-6A Zoning** purpose statement (Section 14-135) states: *"The purpose of the R-6A residential zone is: (c) to encourage neighborhood livability with higher density multi-family housing on large parcels locate off the peninsula. The zone is appropriate in areas that are along major transportation routes, near service areas, and in redevelopment (underutilized) or infill areas."*

The proposed McAuley Campus redevelopment plan will create needed housing for seniors in an urban influenced campus- infusing the neighborhood with higher density quality housing; responsible residents who tend to utilize public transportation and walking and providing for an inter-generational demographic mix of residents and students within the existing McAuley Campus. As an infill site the development meets smart growth initiatives to curb sprawl into the suburbs which would otherwise be required to provide the same level of housing needs. The site is located near service areas off Stevens Avenue near the UNE campus and Route 302 (Forest Avenue) yet allows for a major access from a side street, Walton Street.

Furthermore the site abuts the Deering Pavilion property and is within close proximity to the Park Danforth properties – both re-zoned to R-6A as medium to high density housing. The McAuley campus will provide similar uses consistent with these neighborhood developments.

3. Consistency with the Comprehensive Plan: As stated in the City of Portland Zoning Amendment Application, the proposed re-use plan for the property could be a model project for the City of Portland's comprehensive plan. Some of the key areas cited in the Comprehensive Plan and included the project are:
 - Preservation of historic and natural resources
 - Development of currently unused residential potential
 - Seek incentives and partnerships to increase affordable housing options
 - Encourage higher density housing and walk able neighborhoods
 - Identify vacant land and redevelopment opportunities throughout the City
 - Target vacant buildings for maintenance, rehabilitation and reuse
 - Neighborhood stability and integrity
 - Development that is close to city services, transportation and infrastructure
 - Development that serves the diverse market including seniors

In summary, the proposed project and requested zoning amendment is clearly consistent with the goals of the Comprehensive Plan.

3. The proposed use of the property is also consistent with the historic use of the property and therefore consistent with the surrounding neighborhood. The property has been used for a school, college, church, residential apartment building, convent and senior care facility at various times throughout its history. The proposed use as affordable

senior housing and a senior retirement community is entirely consistent with this historic use. Moreover, the long history of this campus in this location with these uses – for approximately 130 years - clearly demonstrates that the proposed use is compatible with both the property and the surrounding neighborhood. As the center-piece of this neighborhood for over a century, the preservation and reuse of this property is essential for maintaining the stability and integrity of the neighborhood.

B. Proposed R-6A Text Amendments:

The applicant proposes the following text amendments in support of the proposed project.

Land Use Code Section:

1. Sec. 14-47. Definitions.

Congregate care facility: A planned residential unit or multifamily development which provides individual living units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

2. Sec. 14-136. Permitted uses.

The following uses are permitted in the R-6 and R-6A residential zones:

- (a) *Residential:*

6. Congregate care facilities in the R-6A residential zone.

3. Sec. 14-522. [Site Plan] Definitions

Master development plan: A Master Development Plan is a regulatory option for sites with one acre or more in cumulative lot area that's designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements built in phases over an extended timeframe. This option shall not apply in residential zones except for institutional

uses and congregate care facilities in the R6A zone.

4. Sec. 14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses and congregate care facilities in the R6A zone.

6. APPENDICES:

Appendix A provides an overview of the structure of a continuum of care community

In summary we believe that the proposed request for a Zoning Amendment to R-6A meets the goals and requirements of the Land Use Code Sections 14-135 to 14-140 both in letter and spirit with the changes and amendments as proposed and is appropriate for re-development of the site and for the neighborhood.

Our project team remains available to meet with staff to review the application in further detail or to provide any additional information and look forward to meeting the Planning Board and City Council in the coming weeks. It will be important for the project timeline and LIHTC process to work through the campus Master Development Plan and Level III Site Plan reviews for the Motherhouse in a cohesive process in the coming months.

Sincerely,



Frederic (Rick) Licht, PE, LSE
Principal

Encl: As Noted

Cc: (via email - PDF copy)

John Wasileski; Sea Coast at Baxter Woods Associates, LLC
Sister Lindora Cabral; Sisters of Mercy of the Americas Northeast Community, Inc.
Daniel Justynski; Sisters of Mercy of the Americas Northeast Community, Inc.
Dennis Keeler; Pierce Atwood, LP
Matt Teare; C/O Sea Coast at Baxter Woods Associates, LLC
Kevin Bunker; Motherhouse, LLC
Ron Epstein, Natalie Burns; Jensen, Baird, Gardner & Henry
Pat Carroll; Carroll Associates, Landscape Architects
Steve Bushey; Fay, Spofford & Thorndike



April 06, 2015

J14.067

Barbara Barhite
 Development Review Manager
 Planning and Urban Development Department
 Planning Division
 389 Congress Street, 4th Floor
 Portland, Maine 04101

McAuley Place, 605 Stevens Avenue and Walton Street
Request for Zoning Amendment to R-5A
(CBL 136 E006001, 143 F004000, 144 B001000)

Dear Barbara:

On behalf of Sisters of Mercy of the Americas Northeast Community, Inc. (Sisters of Mercy) and Sea Coast at Baxter Woods Associates, LLC we are pleased to submit this revised request for a Zoning Text and Map Amendment for the Sisters of Mercy – Catherine McAuley High School Campus located off Stevens Avenue and Walton Streets in Portland. This zoning request amends our prior proposal dated March 02, 2015 which had proposed a change to R-6A.

Enclosed are one (1) hard copy of the following materials and PDF copies on an attached thumb drive:

- Cover Letter
- Attachment A – Proposed R5A Zoning Amendments
- Attachment B– Site Density Comparisons
- Attachment C – Traffic Trip Generation Analysis
- Exhibit 1 – Site Photographs
- Exhibit 2 – Context Map
- Exhibit 3 - Proposed Parcel Map
- Exhibit 4 - Proposed Zone Change Map
- Exhibit 5 - Conceptual Masterplan
- Exhibit 6 - Conceptual Phasing Plan – Phases 1-4

1. INTRODUCTION

As presented in the prior submission, the Sisters of Mercy and John B. Wasileski representing Seacoast at Baxter Woods Associates, LLC are proposing to redevelop the historic St. Joseph's Convent and surrounding grounds into a continuum of care senior living community. The property, located off Stevens Avenue and Walton Streets contains 18.96 acres including the Catherine McAuley High School and fields, St. Joseph's Convent and St. Catherine's residence hall. The general concept is to offer aging baby boomers and seniors a choice of attractive, living arrangements and an array of support services so that they can remain healthy, active and independent. The highlight of the proposed plan is the re-purposing of the former St. Joseph's Convent "Motherhouse" into 88 affordable dwelling units and common areas.

The project requires a Map and a Text Amendment to the current R-5 Zoning District.

The project proposes the following uses:

- 88 Affordable Housing Units (Motherhouse)
- 230-240 Market Rate Senior/Congregate Apartments or Assisted Living Units.
- 16-18 Senior Apartments (Existing - St. Catherine's)
- McAuley High School – Existing Use

For the purposes of this Zoning Amendment Request, only the 88 Unit Motherhouse Lot and 240-247 Senior Living community are proposed to be zoned R-5A.

2. CHANGES FROM 03-02-15 PROPOSAL

The previous proposal sought to utilize the R-6A Zone with minor text amendments for the property while leaving the St. Catherine's apartments lot as a 2.86 acre lot within the current R-5 Zone as the R6A would have required a minimum of 4 acres which is not practical on the site. The proposal was presented at the March 10th Planning Board Workshop and to neighbors at a February 24th informal neighborhood meeting.

Following the Planning Board Workshop, the applicant's team has worked with staff to make suggested changes and to provide additional information on traffic, comparisons of build-out densities and prepare site elevations to help understand the visual context of the proposed 4 to 5-story buildings within the campus and neighborhood..

Meetings with staff recommended a slightly different course might be more appropriate than the R6A for the site – changing the zoning from R-5 to **R-5A – Residential Zone**. After meetings with staff and review of proposed changes being requested for another senior living property it was agreed to pursue the R-5A map amendment with several amendments to the text. (See *Attachment A*.)

3. PLANNING BOARD AND PUBLIC FOLLOW UP

In response to public comments from both the February 24th and the recent April 2nd Neighborhood Meetings and the Planning Board workshop, we have addressed several key concerns for the proposed 13.5 acres proposed for re-zoning.

- Zoning Density Comparisons:* The Planning Board requested a comparison of the proposed project build-out to what densities the current R-5 and R-6A zones could support. *Attachment B* provides a comparison of the proposed R-5A development as Congregate Housing based 1600sf/"net" land area per unit and the maximum build-out potential of the R-5 and R-6A based on 4500 sf/unit and 1000/1200 sf/unit, respectively.

The analysis demonstrates that moving from an R-5 to an R-5A would increase allowable theoretical build-out from 334 to 368 units or approximately 10% increase. In reality, the 368 units would have to be based on 1-3 unit buildings which when actually placed and designed into a cohesive community on the site, meeting all other standards such as actual market demand, parking, open space, stormwater, etc. would likely be reduced. (The R-6A Analysis generated a maximum build-out of 492 units for comparison only.)

- b. *Traffic Assessment:* The design team met with staff and the City Traffic Engineer, Tom Errico to review appropriate standards and scope for a preliminary traffic assessment. Diane Morabito of Maine Traffic Resources (MTR) has performed traffic trip generations based on the build-out scenarios of (a), above. Her report is included as *Attachment C*. A complete traffic assessment will be provided in the near future as the project progresses to the Master Development Plan phase in order to analyze intersection capacities and offsite conditions in further detail.
- c. *Building Height and Site Sections:* The Planning Board requested that graphic elevations or sections be prepared to demonstrate the context of the proposed 4-5 story buildings within the surrounding neighborhood and to the Motherhouse. The current R-5 Zone has a maximum building height of 35 feet which would not support the proposed level of development. The applicant is proposing a building height of 60 feet to allow for 5-story apartment buildings. This height will be below the Motherhouse roof level and is well below the adjacent Deering Pavillion.

The graphic sections are in progress and will be provided for the April 14th Planning Board workshop.
- d. *Masterplan Changes:* Exhibits 5 and 6 provide an updated conceptual masterplan vision for the property in response to the Board's and public comments. Preservation of athletic field use for McAuley High School was a central theme throughout the public comments. The masterplan exhibits provide a view of the project phasing. Phases 1 and 2 would not result in any change in the athletic fields. Phase 3 would result in the loss of a portion of the fields with some reconfiguration and preservation of the northerly fields. Phase 4 would result in the shifting and/or creation of a new field further to the north towards St. Catherine's. While the masterplan is still conceptual it reflects an approach that supports the more independent baby boomers in the early phases and transitions into increased levels of care as they age in place.

4. REQUESTED ZONING CHANGES

Proposed R5-A Zone Text Amendments are provided in *Attachment A*.

The purpose of the R-5A residential zone is provided in Section 14-126.(a) as:

"To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone."

The project and site are consistent with the R-5A zone with the foundation of the project being the re-purposing of the Motherhouse into 88 affordable senior housing units.

A change from the prior proposal is that due to a minimum lot size of 3 acres and because schools are not a permitted use, the proposed zone change to R-5A would affect only the



Motherhouse and surrounding properties and fields for a total of approximately 13.5 acres of the 18.96 acre site. (Refer to *Exhibit 4 – Proposed Zone Change Map.*) These two uses would be broken into separate lots totaling approximately 5.3 acres and remain as R-5.

5. PROJECT TIMELINE

The applicant wishes to reinforce that the Motherhouse LIHTC and Historic Tax Credit approvals would need to be in place this summer to meet application deadlines. The schedule for the zoning amendments and the commencement of the Master Development Plan process and Level III Site Plan process for the Motherhouse move forward together as efficiently as possible. We look forward to a successful zoning process and submission of the Master Development Plan for City review.

In summary we believe that the proposed request for a Zoning Amendment to R-5A meets the goals and requirements of the Land Use Code Sections 14-126 to 14-131 both in letter and spirit with the changes and amendments as proposed and is appropriate for re-development of the site and for the neighborhood.

Our project team remains available to meet with staff to review the application in further detail or to provide any additional information and look forward to meeting the Planning Board and City Council in the coming weeks. It will be important for the project timeline and LIHTC process to work through the campus Master Development Plan and Level III Site Plan reviews for the Motherhouse in a cohesive process in the coming months.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Licht".

Frederic (Rick) Licht, PE, LSE
Principal

Encl: As Noted

Cc: (via email - PDF copy)
John Wasileski; Sea Coast at Baxter Woods Associates, LLC
Sister Lindora Cabral; Sisters of Mercy of the Americas Northeast Community, Inc.
Daniel Justynski; Sisters of Mercy of the Americas Northeast Community, Inc.
Dennis Keeler; Pierce Atwood, LP
Matt Teare; C/O Sea Coast at Baxter Woods Associates, LLC
David Haynes, RLA; Seacoast Management Company
Kevin Bunker; Motherhouse, LLC
Ron Epstein, Natalie Burns; Jensen, Baird, Gardner & Henry
Pat Carroll; Carroll Associates, Landscape Architects
Andrew Johnston; Fay, Spofford & Thorndike

DRAFT TEXT AMENDMENTS TO R-5A ZONE 04-06-15

(Note: proposed changes are highlighted in Blue and underlined)

Sec. 14-47

Congregate care facility: A planned residential unit development or multiunit development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- ~~(a) — 1. — Stormwater retention areas;~~
 - ~~2. — Stormwater detention areas, unless improved for passive or active recreational use;~~
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.
- ~~(c) — Inaccessible areas, as defined in this section;~~
- (d) Wetlands, as defined in this section;
- ~~(e) — Areas encumbered by existing easements, dedications or similar restrictions, which limit or preclude the construction of permanent structures or which are for any reason unavailable for use in connection with the proposed development.~~
- (f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

~~(g) Twenty (20) percent of the area remaining after the deductions of factors (1) through (6) of this definition.~~

Purpose Statement for R-5A

The purpose of the R-5A residential zone is:

- (a) To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

Sec. 14-127. Permitted uses.

The following uses are permitted in the R-5A residential zone:

- (a) *Residential:*

6. Multi family dwellings, as defined in section 14-47;

7. Congregate Care, as defined in section 14-47.

[Note: (b) Other: includes as 5. Intermediate, extended and long-term care facilities]

Sec. 14-130. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5A zone shall meet or exceed the following requirements:

- (a) *Minimum lot size:*

Residential ~~(single and two-family dwellings)~~: Six thousand (6,000) square feet except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest.

Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.

Intermediate, extended or long-term care facilities: One and one-half (1 1/2) acres.

Multi-family dwellings: Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.

Congregate Care: Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.

- (b) *Minimum lot area per dwelling unit:* Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.

Congregate Care: Sixteen hundred (1,600) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.

Minimum land area per intermediate care facility resident: Eight thousand (8,000) square feet gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.

- (c) *Minimum street frontage:* Fifty (50) feet. PRUD development: Fifty (50) feet.

- (d) *Minimum yard dimensions* (excluding structures in uses listed in (h) below):

- (e). Maximum structure height:

Principal or attached accessory structure: Sixty (60) feet

Accessory detached structure: Eighteen (18) feet.

- (f) *Maximum lot coverage:* Thirty (30) percent of lot area.

- (g) *Minimum lot width:* Sixty (60) feet.

- (h) Minimum building setback from external ~~subdivision~~ property lines for multifamily, PRUD, Congregate Care, and Intermediate, extended or long-term care facilities:

- a. Building length of one hundred (100) feet or less: Twenty-five (25) feet.
- b. Building length of greater than one hundred (100) feet: Thirty-five (35) feet.

- (i) Minimum recreation open space area (PRUD): Two hundred (200) square feet per dwelling unit of common area designated on the site for recreation purposes. ~~Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a contiguous area of six thousand (6,000) square feet, with a minimum dimension of fifty (50) feet, shall be provided and shall include one (1) or more of the uses set forth in section 14-526 (d) 9. and the planned residential unit development standards in the City of Portland Design Manual, but shall at least be usable as a multipurpose game field. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.~~

Additionally we propose that the following text changes be made to Article 14-523(g) 2. Master Development Plan for the McAuley Place Master Development Plan:

14-523 [Site Plan] Required approvals and applicability.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate , extended and long term care facilities in the R5A and R6A zones.

Sisters of Mercy "McAuley Place" Density Computations V7 04-06-15 LED

Parcel ID (See Site Prelim Subdiv Plan.)	AREA (AC.) GROSS	AREA (AC.) NET PER PROPOSED RSA ZONING		Density Requirements	LOT 3	LOT 4	LOT 3+4	LOT 3+4
TOTAL SITE				Proposed RSA Type of Use	Congregate	Congregate	Congregate (use NET Area)	3-Family (use GROSS area)
Lot 1 McAuley HS	3.50	3.50		RSA Ordinance Unit Density (sf/unit) (1.)	1600	1600	1600	1600
Lot 2 St. Cath.	1.86	1.86		Acreage (Ac.)	3.30	10.23	12.26	13.53
Lot 3 Motherhouse	3.30	3.30						
Lot 4 Fields/Stevens Ave	10.23	8.96		Maximum Allowable Density (Units)	90	279	334	368
Total Acreage	18.89	17.62		Proposed (Units)/(Beds)	88	246	334	N/A
LOTS 3&4 PROPOSED ZONE CHANGE								
Lot 3 Motherhouse	3.30	3.30		Current R5 Type of Use	Multiplex	Multiplex	Multiplex	
Lot 4 Fields/Stevens Ave	10.23	8.96		Unit Density (sf/unit)	4500	4500	4500	
Total Acreage	13.53	12.26		Maximum Allowable Density (Units)	32	99	131	
Wetlands (Ac) Lot 4 (Approx.)				Proposed R6A Type of Use	Congregate/ Multiplex	Congregate/ Multiplex	Congregate/ Multiplex	
(approx -scaled)				Unit Density (sf/unit)	Note 5.	Note 5.	Note 5.	
#1	0.93			Maximum Allowable Density (Units)	120	372	492	
#2	0.07							
#3	0.07							
Total	1.07							
> 25% SLOPES Lot 4 (Approx.)								
field slope	0.2							
NOTES:								
1. RSA = 1 unit/1600 sf gross area.								
2. RSA requires min 1.5 acre lot for Assisted Living (Intermed. Care)								
Lot 4 becomes 10.23-1.5 ac = 8.73 ac. Congregate								
Lot 4A is 1.5 acres Assisted Living								
3. Assisted Living - no density requirement in RSA - use R6A: 18000 sf/35 beds + 350sf/ add. bed. 1.5 acres would allow 197 Assisted Living Beds - no a realistic use. Use 36 beds.(no analysis performed)								
4. St. Catherines Lot 2 - has 18 existing units. Assume as R5 for density.								
5. R6A Multifamily = 1000sf/unit Units 1-3 + 1200 sf/unit Units >3								

Memorandum of Purchase and Sale Agreement

Notice is hereby given of the existence of a Purchase and Sale Agreement, dated June 16, 2014 (the "Agreement") between St. Joseph's Convent and Hospital, a Maine non-profit corporation (hereinafter called "Seller") and Sea Coast Healthcare, Inc., a corporation existing under the laws of the State of Maine or its nominee (hereinafter called "SCH"), and of an Assignment, dated September 15, 2014 by SCH to Sea Coast at Baxter Woods Associates, LLC ("Purchaser") of all of its rights as Purchaser under said Agreement.

Under the Agreement, Purchaser has the right and obligation to purchase, on and subject to the terms and conditions of the Agreement, the following property at the First Closing, as hereafter defined: (i) a portion of that certain real property consisting of the real estate situated at 605 Stevens Avenue in Portland, Maine, which portion is to contain approximately 17.36 acres, and all buildings and improvements thereon, including the Motherhouse, the Catherine McAuley school, the land between the Motherhouse and Baxter Woods and the "ball fields" and being the premises described in Exhibit A hereto (but excluding the St. Catherine's Parcel, as hereafter described) and generally shown as Lots 1, 3, 4 and 5 on the Conditional Zone Concept Plan, McAuley Place at Baxter Woods, Stevens Avenue, Portland, Maine prepared by Belanger Engineering, March 21, 2014 attached hereto as Exhibit A (hereinafter the "Plan"), together with easements over the St. Catherine's Parcel for existing and proposed underground drainage and utilities, including sewer, water and other utilities, a parking easement for use of up to a 20 parking space expansion of the parking lot on the St. Catherine's Parcel, and an easement for secondary ingress and egress from Walton Street, all for the benefit of said Lots 1, 3, 4 and 5 (with Purchaser to have the right but not the obligation after the First Closing to construct the drainage and utility lines, parking lot expansion and secondary access permitted by such Easements) (collectively, the "Easements"), which Easements shall be located substantially as shown on the Plan attached hereto as Exhibit A-1 (hereinafter the "Property"), and (ii) an assignment by McAuley Place at Baxter Woods Retirement Community, Inc. of the Credit Enhancement Agreement, dated May 2009 between the City of Portland and McAuley Place at Baxter Woods Retirement Community, Inc. (which is an affiliate of Seller), to the extent assignable, relating to the existing tax increment financing district, with no representations or warranties other than the fact that Seller has not assigned or caused to be assigned such agreement to any third party. At the Second Closing, as hereinafter defined, Purchaser has the right and obligation to purchase, on and subject to the terms and conditions of the Agreement, the following property, for the price and upon the terms and conditions hereinafter set forth, the St. Catherine's Residence, being the land and 18 unit apartment building generally as depicted as Lot 2 on the Plan and referred to herein as the "St. Catherine's Parcel" and also as generally depicted on Exhibit A-1.

The First Closing shall occur on the earlier of the following dates: (a) the date of the construction loan closing with Maine State Housing Authority relating to an award of low income housing tax credits (such loan closing is anticipated to be in April 2015 if low income housing tax credits are awarded to Purchaser or its nominee in the fall of 2014, or in April 2016 if low income housing tax credits are awarded to Purchaser or its nominee in the fall of 2015); or (b) June 30, 2016. The First Closing shall also occur on any earlier date as specified by Purchaser by at least ten days prior written notice to Seller. The Second Closing shall occur on the earlier of: (i) the date that is ten years after the date of this Agreement, or (ii) the date that is 180 days after Seller certifies to Purchaser in writing that all Non-Market Rate Leases have expired or been terminated, and that the Second Closing Date has been scheduled for 180 days after the date of such certification.

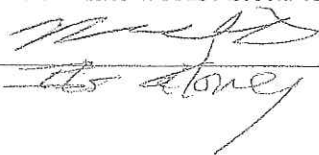
This Memorandum does not modify or alter the terms of the Purchase and Sale Agreement in any way.

Dated as of this ___ day of October 2014.

WITNESS:

Sea Coast at Baxter Woods Associates, LLC

By: _____

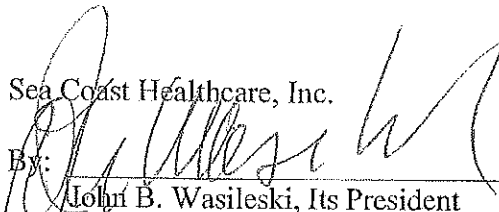


Assignment

For value received, Sea Coast Healthcare, Inc. hereby assigns the Purchase and Sale Agreement, dated June 16, 2014, between St. Joseph's Convent and Hospital, as Seller and Sea Coast Healthcare, Inc., as Purchaser, relating to property at 605 Steven's Avenue, Portland, Maine, to Sea Coast at Baxter Woods Associates, LLC, a Maine limited liability company. Baxter Woods Associates, LLC hereby assumes and agrees to perform all obligations as purchaser under said Agreement.

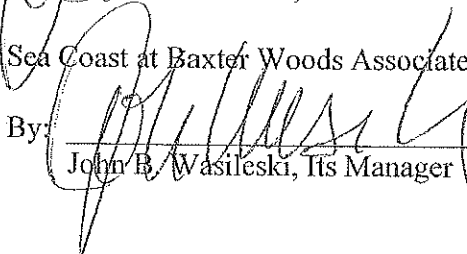
Dated: Sept 23, 2014.

Sea Coast Healthcare, Inc.

By: 

John B. Wasileski, Its President

Sea Coast at Baxter Woods Associates, LLC

By: 

John B. Wasileski, Its Manager

Chart of a Continuum of Care Community

Independent Resident Townhouses/Apartments

- ◆ **Resident Profile.** Healthy, active, independent seniors who still cook and drive. Up to 50% couples. Assume 1 car per apartment.
- ◆ **Unit Summary.** 140 cooperative housing units for sale at *market rates*
- ◆ **Product Summary.** Senior-friendly construction, maintenance / security services and social activities allows residents to remain healthy and independent
- ◆ **Market Summary.** Fastest growing segment of senior housing market. Largest potential market and greatest income potential.



Independent Resident Apartments

- ◆ **Resident Profile.** Seniors who require assistance with basic services such as cleaning, cooking and transportation in order to remain independent. Over 75% are single and approximately 50% to 60% of residents will have one car.
- ◆ **Unit Summary.** 60 + 32 = 92 +/- congregate apartments including a number of affordable apartments (20% to 40%) and the balance being market rate.
- ◆ **Product Summary.** Senior-friendly construction and an array of support services allow residents to remain independent in an apartment setting.
- ◆ **Market Summary.** Seniors choosing independent apartments today are increasingly frail and in need of support services.



Assisted Living Apartments in the Motherhouse

- ◆ **Resident Profile.** Seniors who can no longer live independently and require assistance with activities of daily living such as bathing, dressing, dining and medication management. Over 85% are single and none will drive a car.
- ◆ **Unit Summary.** 24-36 +/- assisted living apartments with rent based services required.
- ◆ **Product Summary.** Senior-friendly construction, support services and assistance with activities of daily living helps residents remain in an apartment setting.
- ◆ **Market Summary.** Important to keep occupancy near 100% due to high cost of services and staffing. Strong demand for affordable assisted living.

Sisters of Mercy -- St. Joseph's Convent

Att. F



EXHIBIT 3

PAGE 1

Exterior Views of Motherhouse



Interior Views of Motherhouse



SUMMARY MEMORANDUM

TO: Mr. Matthew D. Teare
Director of Development
Sea Coast Management Company
30 Governors Way
Topsham, Maine 04086

DATE: April 3, 2015

RE: Trip Generation Analysis for Proposed Zoning Alternatives on the McAuley Site in
Portland, Maine

Introduction

The purpose of this memorandum is to summarize trip generation analysis prepared for the proposed re-zoning of the McAuley site on Stevens Avenue in Portland, Maine. The zoning is being requested to accommodate a proposed senior housing development. The requested rezoning of lots 3 and 4 would change the zone from the current R5 to the requested R5A. It is understood that the current R5 zone would allow for up to 131 dwelling units to be constructed on lots 3 & 4 (where Motherhouse and Proposed Senior Congregate Community would be located, as shown conceptually on Figure 1.) The proposed R5A zone would allow for up to 368 dwelling units on these lots or approximately 335 senior congregate apartments. It was assumed for this trip generation analysis that the dwelling units would consist of attached apartment units since they would generate more trips than condominium units. The density that could be obtained with single-family detached housing would be significantly less so this apartment basis is "worst case" in terms of potential trip generation.

Trip Generation Analysis**Maximum Build-Out**

Trip generation for the maximum potential build out of the rezoned lots 3 & 4 was determined using the most recent Institute of Transportation Engineers (ITE) "Trip Generation, 9th edition" report, published in 2012. As previously discussed, Land Use Code (LUC) 220 – Apartment was used to represent "worst case". The results for existing R5 zone with 131 units and the proposed R5A zone with a maximum of 368 units are summarized in the following table:

ITE Trip Generation for Potential Build-Out (one-way trip ends)				
<u>Time Period</u>	<u>Apt. Trip Rate</u>	<u>Current R5 131 Units</u>	<u>Proposed R5A 368 Units</u>	<u>Change in Trips</u>
Weekday	6.65	872	2,448	1,576

<u>Time Period</u>	<u>Apt. Trip Rate</u>	<u>Current R5 131 Units</u>	<u>Proposed R5A 368 Units</u>	<u>Change in Trips</u>
AM Peak Hour – Generator	0.55	72	202	130
Entering		21	59	38
Exiting		51	143	92
PM Peak Hour – Generator	0.67	88	247	159
Entering		54	151	97
Exiting		34	96	62
Saturday	6.39	838	2,352	1,514
Saturday Peak Hour	0.52	68	191	123
Entering		37	103	66
Exiting		31	88	57

As can be seen in the above table, the proposed zone change from R5 to R5A would result in approximately 130 new one-way trips during the weekday AM peak hour, 159 during the PM peak hour and 123 during the Saturday peak hour. This assumes that lots 3 & 4 are developed to the maximum density permitted, which is currently limited by a maximum of three-unit buildings. If the site were designed to accommodate three unit attached flats, with no garages, and to meet ordinance requirements for open space, parking, setbacks, etc., it is highly unlikely that the theoretical maximum density of 368 units could be achieved, further supporting that this is a highly conservative analysis.

Proposed Senior Housing Build-Out

Trip generation was also performed for the currently proposed senior housing development, also using the ITE “Trip Generation, 9th edition” report for comparison purposes. It was determined that under the R5A zone the maximum number of units that could be developed was 335. It is expected that the development will contain independent living apartment units as well as some assisted living. The expected split for the maximum 335 units would be 24 assisted living units and 311 independent living units. Land use codes 252 – Senior Adult Housing – Attached and 254 - Assisted Living were used on the basis of dwelling units for the senior housing option. The results are summarized below:

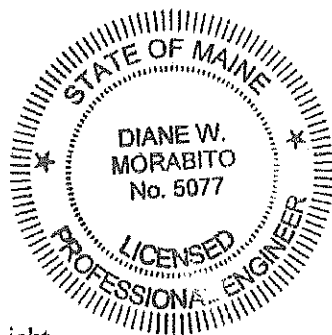
Projected ITE Trip Generation (one-way trip-ends)					
Proposed Senior Housing Development					
Time Period	311 Senior Living		24 Assisted		Total
	Attached Units		Living Units		
	Rate	Trips	Rate	Trips	
Weekday	3.44	1,070	2.74	66	1,136

<u>Time Period</u>	311 Senior Living Attached Units		24 Assisted Living Units		Total Trips
	<u>Rate</u>	<u>Trips</u>	<u>Rate</u>	<u>Trips</u>	
AM Peak Hour – Generator	0.39	121	0.23	6	127
Entering		56		4	60
Exiting		65		2	67
PM Peak Hour – Generator	0.35	109	0.37	9	118
Entering		60		4	64
Exiting		49		5	54
Saturday	2.61	812	2.20	54	866
Saturday Peak Hour	0.31	96	0.36	9	105
Entering		55		5	60
Exiting		41		4	45

As can be seen above, the proposed senior housing development, assuming the highest build-out dwelling unit numbers, is expected to generate 127 one-way trips during the weekday AM peak hour, 118 during the PM peak hour and 105 during the Saturday peak hour. Given that trip generation would exceed the 100-trip threshold, a state Traffic Movement Permit (TMP) would be required prior to the completion of the project, unless there are any site credits available for reduced trips at the high school.

The study area for 100 -200 trip level TMPs is typically limited to the immediate vicinity of the site since this level of traffic does not generally have a major impact off-site beyond the site drives. The City of Portland has delegated review authority to review the TMP application and issue the permit on behalf of the State of Maine Department of Transportation (MaineDOT).

Please do not hesitate to contact me if you or the City of Portland have any questions regarding this preliminary traffic information for the proposed rezoning to accommodate the planned senior housing development.

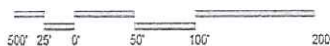


Sincerely,

Diane W. Morabito, P.E. PTOE
President

cc: Rick Licht
Tom Errico, TY Lin
Jean Fraser, Portland

03.30.15
REV 3 ZONING



McAuley Place
CONCEPTUAL PHASING PLAN

PHASE 4

(TOTAL ACREAGE 18.89 ACRES)
RSA REZONING = LOT 3 + 4 = 13.50 ACRES[±]

MEETING • PHONE • FIELD VISIT NOTES

Project:	McAuley Place (aka Seacoast at Baxter Woods) 605 Stevens Avenue Portland	Project No.:	14.067
Attendees:	See Attached Attendance List	Date:	April 02, 2015, 6:30 PM
Subject:	Rezoning Neighborhood Meeting	Location:	Sisters of Mercy Convent "Motherhouse" 605 Stevens Avenue

Meeting Purpose:

Official Neighborhood Meeting to review proposed rezoning of the McAuley Campus from R-5 to R-5A for proposed re-development of the Motherhouse as affordable senior housing and development of a congregate/senior community.

Presentation:

John Wasileski, Seacoast at Baxter Woods Associates, LLC
Matt Teare, Seacoast at Baxter Woods Associates, LLC
Kevin Bunker, Motherhouse LLC
Rick Licht, PE, Licht Environmental Design, LLC

Project :**Motherhouse:**

- 88 Affordable Senior Units.
- Low Income Housing tax Credits (LIHTC) and Historic Tax Credits (HTC) being pursued – critical to making project financially solvent due to complexities in re-developing Motherhouse.
- 68 One BR and 20 Studio Apartments. (66 Affordable@\$640-830/mo./22 Market Rate@\$1150-1200/mo.)

Congregate/Senior Community:

- Developer has 30+ years of experience developing and operating senior and congregate living communities in Maine.
- Proposal for up to 250+/- senior congregate housing apartment units with services.
- Current option includes McAuley High School lease – option to extend up to 25 years.
- Full build-out to preserve play field as practice field or full size field.

Zoning and Densities:

- Only 13.5+/- acres of the 18.98 acre campus proposed for rezoning. (Does not include McAuley HS and St. Catherine's lots)
- R5 density permits 131 residential multiplex units/R5A would allow 330-335 Units based on proposed Net area/R6A would permit 492+/- units based on gross area.
- Current R5 building height is 35 feet. R5A has no specific requirement – proposing 60 feet for 5 story buildings.

Public Comments:

1. Who receives tax credits? Developer receives and sells credits to investors.
2. Define Senior Housing? 55 plus age. This is not housing for young adults however, moving seniors into these facilities frees up housing stock in the City for young adults.

3. What is typical absorption rate of LIHTC projects? All of developer's LIHTC projects fully occupied/built out.
4. What utilities do Motherhouse rents include? All utilities but electric.
5. Traffic Concerns , Project will increase congestion and traffic? Cannot find spaces at Stevens Ave or even in the cemetery. Concerns over fire/ambulance visits as with Park Danforth. The project will undergo a traffic study and be peer reviewed by the City Traffic Engineer. Typical ITE figures provide for significantly less peak hour trips than single family dwellings and seniors by choice do not have to travel at "peak" hours. Campus will include van transportation, utilize public transportation and provide a walking campus to further reduce traffic. On average residents of Developer's other communities, only 1/3 residents own vehicles.
6. What is plan for Chapel – Under HTC must keep in existing condition. To be preserved for use by residents.
7. What services will be offered with Motherhouse units? Motherhouse will not have full services but will maintain full kitchen, etc. for use. Services include access to resident counselors on regular basis.
8. What is plan for development of Senior/Congregate campus? Development will respond to current market trends with more independent living units initially for baby-boomers and transition into more full service congregate facilities in later phases as residents age.
9. Project will be asset to community allowing for multi-generational partnership with the school, and with Deering Pavilion/UNE/ Park Danforth, etc. Good for the community. Shared options with School include potential pool use, meals and nutrition education, volunteerism with residents and students, etc.
10. How will Motherhouse be set up/ownership and will they pay taxes? Motherhouse will be set up as Co-Op or Condominium and is not tax exempt.
11. What is phasing schedule? Anticipated plan is 2016-17 Motherhouse development, 2017-18 – 50 units senior apartments; market driven phases expected to fully build out in phases by 2022 up to 335 +/- units. Developer builds based on pre-sales of units.
12. Will Stevens Ave be used for parking? No, project will meet all parking requirements on-site and proposes to use underground garage parking under buildings pending final geotechnical evaluations. Seniors have significantly less ownership of cars than general public.
13. Concerns that project is proposing loss of athletic fields. Project is proposing to phase in the development (Phases 1-4). Initial Motherhouse Phase and first Senior Apartment phase will have no or minimal effect on fields (2016-2018/19). Subsequent phases will encroach on fields requiring re-orienting and loss of some play fields. Final phase will result in practice or full sized field if possible based on engineering and design. Reminder that prior to the 2006+/- Field Expansion, the school existed with one playfield area. Games were played in off-campus locations in Portland.
14. School is in competition with Chevrus- How can we compete for students without full size fields?
15. School has had decreasing enrollment for 10 years –obviously the field expansion has not helped sustain enrollment.
16. Is there flexibility in planning of fields and site? Yes, design masterplan is very conceptual at this point and every effort will be made to incorporate a full size field into final phases of project.

17. Concerns voiced over long term viability/sustainability of McAuley HS with loss of fields. Developer option is with the Sisters of Mercy with option on School to allow school to continue on the site. Developer has been working with the Sisters for over 10 years to make this a viable project and to sustain the school. School will have lease with graduated rent and COLA over prescribed period of years.
18. Concern over building heights – New buildings proposed at 60 ft. maximum requested in new R5A zoning. Will not exceed Motherhouse height. Site drops off topographically from Stevens Ave. further reducing any height concerns. Developer will prepare site sections for Planning Board.
19. 55+ communities – allows “relatively young” working couples who will increase traffic and own more 2 autos? No, the economic reality is that retirement communities average age is 70-75+.
20. Concern by residents over sporting events and traffic generated on Walton Street under current McAuley school use.
21. Stormwater concerns – residences on Holly Street. Former springs under fields and groundwater. Area is always wet. Developer will be completing comprehensive stormwater study and mitigating increases in stormwater due to development to meet City/DEP standards. Engineers will meet with residents to view concerns.
22. Fields are useless for athletic game play – current fields are not safe and have poor quality/irregular surfaces. If school feels fields are needed onsite to sustain enrollment – should be considering turf fields on or offsite to be competitive.

These notes have been prepared by Frederic Licht, PE, and are the author’s interpretation and summary of the presentation and comments provided by the public and may not reflect each individual speaker’s comments.



Frederic (Rick) Licht, PE LSE
Principal



Dear Neighbor,

Please join us for a neighborhood meeting to discuss our plans for an active senior living community on the Sisters of Mercy / McAuley School Campus located at 605 Stevens Avenue.

The details of the meeting are as follows:

Meeting Location: St. Joseph's Convent // "The Motherhouse"
Meeting Date: Thursday, April 2nd, 2015
Meeting Time: 6:30 pm

Please arrive via the Walton Street entrance to the campus and park in the McAuley School parking lot. As you walk toward the Motherhouse from the parking area, the open entrance to the Motherhouse will be at the side of the Motherhouse just before you reach the front of the building. There will be a sign on the open doorway. Please proceed up the short flight of stairs and straight down the 1st floor corridor and up the main stairway to the chapel on the 2nd floor.

This is meant to be an informal, collaborative conversation regarding our preliminary proposal. After a brief presentation on our concept plans, we would like to hear your thoughts, concerns, comments and ideas.

In addition, if you would like to meet with our team individually or have other questions / comments, feel free to contact me via phone or email at 837-2418 or mteare@highlandgreenmaine.com.

Thank you for your time and consideration.

A handwritten signature in black ink, which appears to read "Matt Teare". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

Matt Teare
Director of Development
Sea Coast Management Company

EXAMPLE: Neighborhood Meeting Certification

I, (applicant/consultant) hereby certify that a neighborhood meeting was held on (date) at (location) at (time).

I also certify that on (date at least ten (10) days prior to the neighborhood meeting), invitations were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed development or within 1000 feet of a proposed industrial subdivision or industrial zone change.
2. Residents on the "interested parties" list.
3. A digital copy of the notice was also provided to the Planning Division (jmy@portlandmaine.gov and ldobson@portlandmaine.gov) and the assigned planner to be forwarded to those on the interested citizen list who receive e-mail notices.

Signed,

Wm D. Turner 04-03-15 (date)

Attached to this certification are:

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



May 01, 2015

J14.067

Jean Fraser, Planner
 Planning and Urban Development Department
 Planning Division
 389 Congress Street, 4th Floor
 Portland, Maine 04101

605 Stevens Avenue and Walton Street, Portland
Request for Zoning Amendment to R-5A
(CBL 136 E006001, 143 F004000, 144 B001000)

Dear Jean:

On behalf of Sisters of Mercy of the Americas Northeast Community, Inc. (Sisters of Mercy), Sea Coast at Baxter Woods Associates, LLC and Motherhouse LLC we are pleased to submit the following additional information in support of our request for a Zoning Map and Text Amendment from the R-5 to an R-5A Zone. The following and attached materials supplement our submission of April 24th and respond to specific zoning related questions raised at the April 14th Planning Board workshop. We have included the April 24th letter as an attachment for ease of reference.

This submittal includes the following:

- Exhibit 1 – Proposed Zone Map Change -Revised
- Exhibit 2 – Building Height Study
- Exhibit 3 – Building Massing Models
- Exhibit 4 – Traffic Memo, Maine Traffic Resources, dated 04-29-15
- Exhibit 5 - April 24th Letter to Staff re: Zoning Criteria

1. Proposed Zoning Map Amendment

The Planning Board had suggested that the “finger” which is the proposed main access right of way to the main rear lot (Lot 4) off Walton Street be excluded from the proposed R-5A zone to avoid cutting into the R5 district (*Exhibit 1*). We feel it is better not to split parcels with different zoning designations but are open to continuing the discussion. We have also made a minor adjustment in the R-5A zone line at the rear of the St. Catherine’s lot provide a “cleaner” zone line.

2. Appropriate Building Height for the Campus (Refer to April 24th Letter, *Exhibit 5*)

The project team has analyzed the site and building program proposed for the campus and after further evaluation would support a building height of **55 feet rather than 60 feet**. We height will allow for 4 and 5 story buildings depending on construction type.

We have prepared *Exhibit -2 Building Height Study* to further the discussion of how this height is compatible with the Motherhouse, the rest of the McAuley campus and the general neighborhood. *Exhibit 2* compares key buildings in the general Stevens Avenue area from the Deering Pavillion at 11

stories and over 100 feet tall to Park Danforth at 64 ft. +/- and the Motherhouse at 56 feet to the roofline and 108 feet to the top of the dome. More importantly the proposed 4-5 story senior apartments would be set back over 180 ft. from Stevens Avenue and behind the face of the Motherhouse with the historic iron fence, mature evergreen and specimen trees providing a significant visual buffer from Stevens Avenue. All proposed buildings would be below the height of the Motherhouse.

Equally important to this site, the proposed 4 and 5 story senior apartments would drop topographically 8-10 feet from Stevens Avenue towards the rear of the site further reducing any visual impact. The 70-ft. trees at Baxter Woods would further mask the buildings from south of the property.

We believe the proposed 55 foot building height is both appropriate for the R-5A zone to promote smart growth ideals of providing medium density housing in designated zones off-peninsula within the City and consistent with surrounding uses.

3. Project Scale and Massing:

Exhibit 3 provides a study of proposed and existing building massing from various view points. The massing is not specific to a particular building design but rather serves to illustrate the compatibility of the scale and height with the existing campus and adjacent land uses. The study demonstrates how the proposed campus development is set towards the south and east (rear) of the site with open space – either athletic fields or mature tree growth in the foreground separating the development from adjacent streets and view corridors. Baxter Woods dominates the background with the forest canopy well above proposed senior apartments.

The massing study also clearly demonstrates the significance both physically and architecturally of the Motherhouse as the dominant structure on the campus and in the immediate Stevens Avenue neighborhood, as it should be. It is a proud building which will remain the prominent focus of the campus.

Another factor which the massing study helps to illustrate is the relationship between building height, scale, density and open space. The model suggests a combination of 4 and 5 story buildings to achieve the desired density of units. Reducing the senior apartment buildings to only 4 stories would add an additional structure with a direct reduction in open space and field area. Creating a well designed campus requires a balance of all of these factors in a complimentary fashion – not simply a discussion of building height.

We believe that the information presented supports both the scale of the buildings being proposed in a campus environment and the compatibility of the project within the surrounding neighborhood.

4. Lot Coverage and Open Space: (Refer to April 24th Letter, *Exhibit 5*)

As stated in the April 24th letter, we support staff's recommendation for the R-5A lot coverage of 30% and open space of 200 square feet per dwelling unit. The project masterplan at full build out with current refinements is under 21% lot coverage. The open space, including the practice field for the Senior Congregate Apartment Lot 4 would require approximately 10% of the site as open space based on the current concept masterplan whereas over 20% of usable, level land can be provided. On the

Motherhouse Lot (Lot 3) approximately 12% of the lot is required as open space and over 25% can be provided as common areas. The ability to provide increased open space is directly related to the concept of using underground parking to reduce impervious areas and provide for a “greener” campus. The proposed standards would allow for greater flexibility in site planning on other sites which do not utilize underground parking.

5. Traffic and Senior Drivers:

The Planning Board and City Traffic Engineer requested (1) that the applicant respond to public comments of safety and senior drivers and (2) provide a comparison of Institute of Transportation Engineers (ITE) trip data with actual facility data.

Our traffic engineer, Diane Morabito, PE, PTOE, has researched data from the Maine Department of Transportation (MDOT) which relates driver age groups to accident data and has conducted trip counts at The Highlands retirement community in Topsham. The results of her research are summarized in her memo dated April 29th, 2015 (*Exhibit 4*) and support the following conclusions:

- a. Trip Counts: The actual trip counts from The Highlands correlated to within 9% of the ITE data which is not considered a significant deviation. This data suggests that using ITE data is accurate. Additionally, the proposed senior campus at 605 Stevens Avenue is more urban than The Highlands and is located on the city metro bus route and is in a walkable neighborhood—all factors which will further reduce vehicle trips.
- b. Safety: A review of two factors in the determination of safety was conducted – intersection accident data at three retirement community driveways and analysis of accident rates by age. In the first assessment all study intersections had a critical rate factor (CRF) of less than 1.0 indicating a crash rate less than similar intersections in non-senior communities. The latter assessment found that without exception, the older the driver age group, up to and including “70 and older” – the lower the crash rate. The data suggests that older drivers do not as a group, statistically pose a safety threat.

Additionally the City Traffic Engineer has requested that traffic & pedestrian counts be conducted while schools are in session. Due to school vacation week, those counts are being performed this week and the additional assessments will be provided to staff in a separate submittal when completed.

6. Transportation Management Programs in other Seacoast Senior Communities:

- a. Overview: Compared with virtually every other type of use allowed on the property under zone 5 or 5A, a senior community will produce the lowest and safest amount of traffic by far. Additionally, a significant portion of the traffic it does generate (the senior residents) will intentionally avoid driving during the am and pm peak hours.
- b. Background based on Current Sea Coast Communities: (Senior Independent Living in Apartments). Approximately 60% of residents living in our lodge buildings (senior independent living in apartments) have and use cars on an everyday basis. As residents age, they increasingly turn to the community transportation program versus driving themselves. This is the whole concept of a senior living community with services. As residents age, the services are available

that allow them to continue to be independent, healthy and active as opposed to someone living alone who is very dependent on their car.

- c. OceanView Transportation Program: Our transportation program is robust and growing. We have two vans and three cars dedicated to providing transportation to our residents. The two vans provide regularly scheduled transportation to residents for all forms of shopping, restaurants visits, tourist trips and a variety of social and wellness activities. The three cars provide residents with individualized transportation by appointment for all their other transportation needs. In order to manage and deliver this program, OceanView employs a full-time transportation coordinator, two part-time drivers and several per diem drivers to manage and provide the transportation program. Finally, a public bus service from Portland to Falmouth does provide regular service through the OceanView campus with several stops a day.
- d. Prospect Resident Profile: Many residents for the proposed community will come from the greater Deering Center neighborhood. These seniors will be become less car dependent through access to the community transportation programs and services. Moreover, the seniors attracted to a community on Stevens Avenue – located in a more urban location – are more likely to take advantage of the walkability and public transportation than our typical suburban resident.
- e. Overall Safety with Senior Drivers within a Planned Community: In a senior community, residents who may be having challenges with driving (and other health and wellness issues) are identified by staff and fellow residents and proactive steps can be taken to address any issues. Many senior communities also have resident services coordinators who can help identify the services a resident may require and coordinate the access of those services in a timely manner. Lastly, adult children are able to “encourage” their parents to take advantage of existing transportation programs available within a community. This can be a very difficult conversation and process when a senior is living alone in a car dependent situation.

7. Parking Management at the Proposed Campus:

- a. Overview. As a developer and operator of planned senior communities, we focus significant time and effort on the issue of parking on our campuses. We work hard to balance the day to day parking requirements with a comprehensive parking plan.
- b. Day to Day Parking Needs. The campus will be designed to meet the everyday parking needs of residents, staff and guests. Based on our experience managing communities, these numbers can be predicted and planned for with accuracy. Parking spaces are typically assigned to each of these groups to ensure that residents – first and foremost – have a convenient and safe place to park as close as possible to their home. For this specific project, we are working to provide the majority of resident parking spaces (outside of the Motherhouse project) via underground parking garages – thus freeing the new surface parking for staff and guests to the campus. The masterplan would not require any additional parking on Stevens Avenue.

- c. McAuley School Events. Applied to the current proposal, we are already working with the McAuley School to integrate their parking needs and challenges into our proposal. With the new project, the intent is to share parking on the campus via the appropriate easements. This will allow overflow parking from one aspect of the campus to utilize available parking in other areas of the campus. Additionally, we will coordinate a shared schedule. For example, large warm weather events at the senior community would be scheduled during the summer months when the school parking lot would be largely available.

8. Stormwater and Ecology:

Concerns from residents have been expressed over stormwater, groundwater and the impact of the project on the ecology of Baxter Woods. All of these issues will be addressed during the Master Development Plan and Level III Site Plan review processes as more detailed plans are developed. However we can offer the following qualified comments to address concerns at this time:

- a. Standards: The project will undergo a rigorous design and review process to meet and exceed the City of Portland Chapter 32 stormwater standards which invoke the DEP Chapter 500 Stormwater Management Rules. We anticipate the implementation of a combination of low impact development (LID) stormwater measures such as rain gardens, bio-filters, pervious pavements and possible wet pond to mitigate increases due to development to below existing conditions for both stormwater quality and quantity.
- b. Existing Conditions: We are aware of the wet conditions located to the east, down gradient of the campus and our design team has agreed to meet with several neighbors who have raised concerns over current conditions to more fully understand their stormwater or groundwater issues. The introduction of a positive stormwater management system for the campus, addition of underdrains coupled with stormwater retention/infiltration through the use of LID devices should cause improvements over current conditions.
- c. Ecology: Questions were raised over the impact to the ecology of Baxter Woods from the development of the proposed housing and in particular, underground parking. We would suggest that the hydrologic conditions necessary to support the robust tree and woods growth of Baxter Woods is derived from both surface and groundwater. Based on initial geotechnical investigations on-site to understand soil conditions and as noted above, the stormwater management system intends to implement infiltration measures wherever possible to recharge the soil strata and groundwater. Secondly the underground parking may be up to 12 ft. below grade and will contain underdrain systems would be below the root systems of typical hard and softwood trees and would be located to meet City setbacks from the woods/property line. Lastly the project will maintain the existing 30 foot wooded buffer between any building and the southern property line at Baxter Woods.



In summary we believe we have addressed all issues and concerns raised by the Planning Board and Staff and look forward to presenting information on the requested zoning Text and Map Amendments at the May 12th Public Hearing. In the meantime we welcome the opportunity to meet with staff to cover any questions or provide any additional information as needed.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Licht".

Frederic (Rick) Licht, PE, LSE
Principal

Cc: (via email - PDF copy)
John Wasileski; Sea Coast at Baxter Woods Associates, LLC
Sister Lindora Cabral; Sisters of Mercy of the Americas Northeast Community, Inc.
Daniel Justynski; Sisters of Mercy of the Americas Northeast Community, Inc.
Dennis Keeler; Pierce Atwood, LP
Matt Teare; C/O Sea Coast at Baxter Woods Associates, LLC
David Haynes, RLA; Seacoast Management Company
Kevin Bunker; Motherhouse, LLC
Ron Epstein, Natalie Burns; Jensen, Baird, Gardner & Henry
Pat Carroll; Carroll Associates, Landscape Architects
Andrew Johnston; Fay, Spofford & Thorndike



EXHIBIT 5
TO 05-01-15 SUBMITTAL

April 24, 2015

J14.067

Barbara Barhydt
Development Review Manager
Planning and Urban Development Department
Planning Division
389 Congress Street, 4th Floor
Portland, Maine 04101

605 Stevens Avenue and Walton Street, Portland
Request for Zoning Amendment to R-5A
(CBL 136 E006001, 143 F004000, 144 B001000)

Dear Barbara:

On behalf of Sisters of Mercy of the Americas Northeast Community, Inc. (Sisters of Mercy) and Sea Coast at Baxter Woods Associates, LLC we are pleased to submit the following supplemental information in support of our request for a Zoning Map and Text Amendment from the R-5 to an R-5A Zone. This information supplements our prior submission of April 6th and responds to specific zoning related questions raised at the April 14th Planning Board workshop.

We understand that this project will not be on the Planning Board workshop next Tuesday, April 28th but we wanted staff to have the three key zoning related to the 605 Stevens Avenue project as background in the discussion of proposed Amendments to the R-5A Zone – building height, open space and lot coverage. Further information and graphics related to neighborhood compatibility, building height, traffic, etc. will be provided in a more comprehensive submittal next week for the May 12th Planning Board meeting.

1. Appropriate Building Height for the Campus

- a. Overview. We are seeking the 60 feet height limit within the proposed R-5A zoning based on the proposed design for this community and our experience at our other communities. With regard to the proposed community, the key factors relating to height are (1) the size and scale of the Motherhouse (the focal point of the community); the size and scale of other buildings in the neighborhood; the goal of minimizing building footprints and maximizing green / open space; the goal of providing underground parking to reduce surface parking; and ensuring an appropriate density to meet the financial requirements of the project as well as the overall need for new and expanded housing options in this area of Portland.
- b. The Motherhouse and the View from Stevens Avenue. First and foremost, the buildings must complement and enhance the existing motherhouse. This can be addressed through building placement, materials, height and overall design. The Motherhouse is essentially 5 full floors of livable space including a daylight lower level, three main floors and a full size floor enclosed by a dormered roof. The average roof height of the Motherhouse is 56 ft., the top of the dome is 108 ft. and the top of the spire on the dome is 119 ft.. To ensure that this magnificent building and view from Stevens Avenue is not negatively impacted, any new building will be (1) set back

behind the front of the Motherhouse; (2) the building closest to Stevens Avenue will be stepped down a floor to ensure it is clearly secondary to the Motherhouse; (3) the large, mature trees at the front of the Motherhouse will be preserved to provide only a filtered view of the new buildings; and the grade – which drops from Stevens Avenue to the rear of the site will ensure that no new building exceeds the roof height of the existing Motherhouse.

- c. Designing with a 60 feet Maximum. The requested 60 ft. height limit is based on our experience designing recent senior living buildings with parking underground. We recently completed a very attractive 3 ½ story building with underground parking on our OceanView at Falmouth campus. This building stands at approximately 50 ft. measured from the first floor level. This height is impacted by underground parking, high ceilings, space requirements for mechanical equipment, a residential style roof and additional equipment on the roof. Based on this experience, we feel that 60 ft. is absolutely required to ensure we have the flexibility to design an attractive 4 ½ story building with a residential style roof on the campus.
- d. Building Height in Falmouth. We also have recent experience working on building height restrictions in the Town of Falmouth. The OceanView at Falmouth campus is located in a suburban residential neighborhood in Falmouth. There are no existing buildings anywhere in the vicinity the rival the size and scale of the Motherhouse. Despite this fact, the Town has worked with us twice over the last decade to raise the height limit from 39 feet to 45 feet to 60 feet. The town was comfortable with the height because it recognized our commitment to quality design and planning as well as the unparalleled economic and community development benefits of the community.

Following are comparisons of various building heights found in typical residential construction based on input from the project architects:

- a. Motherhouse Heights. (From rear lowest grade)
 - To average of roof pitch = 56 ft.
 - To top of dome = 108 ft.
 - To top of spire at dome = 119 ft.
- b. Typical four (4) story residential building:
 - Flat roof = 41.5 ft.
 - Pitched roof = 50 ft+/-
- c. Typical four (4) story residential building over parking first level:
 - Flat roof = 51.5 ft.
 - Pitched roof = 60 ft+/-
- d. Typical five (5) story residential building (required to meet non-combustible codes)
 - Flat roof = 50 – 52 ft.
 - Pitched roof = 55 - 60 ft.

EXHIBIT 5

e. Recently completed "Blueberry Commons" apartments at OceanView Retirement Community
four (4) stories with underground parking

To top of roof = 50 ft

To ½ dormer roof = 46 ft.+/-

As noted above, we will follow up with a more comprehensive visual assessment of comparative building heights and scale of the proposed campus masterplan in context to the neighborhood next week. The following photographs help to illustrate 4 and 5 story building heights.



Blueberry Commons Senior Apartments,
OceanView Retirement Community
Falmouth

EXHIBIT 5



Motherhouse – Front Elevation

2. Lot Coverage:

Current R-5 zone allows a maximum lot coverage of 40%

Current R-5A zone allows a maximum lot coverage of 30%

The applicant supports the existing lot coverage standard of 30%.

The following demonstrates that the proposed masterplan can meet the current maximum lot coverage or 30%.

Lot 3 - (3.4 acres+/-) Motherhouse : 19.5%

Lot 4 – (10.4 acres +/-) Congregate/Senior Apartments:

Assuming 5 Story Buildings: 15.0 %

Assuming 4 story Buildings: 18.5%

3. Open Space:

Current R-5 zone Open Space requirements apply to PRUD only at 300 s.f. per dwelling unit of level, dry land with a minimum of one 6,000 s.f. area or one multipurpose game field.

Current R-5A zone Open Space requirements apply to PRUD only at 200 s.f. per dwelling unit with a minimum of one 6,000 s.f. area or multipurpose field.



Applying the current R-5A PRUD standards, the following Open Space would be required for Lots 3 and 4:

Lot 3 –Motherhouse (88 dwelling units):

17,600 s.f. (0.40 acres) required

75,700 s.f. (1.72 acres) provided

Lot 4 – Congregate/Senior Apartments (use 235 units):

47,000 s.f. (1.07 acres) required

226,000 s.f. (5.19 acres) provided @ 5-story buildings/underground parking

The applicant supports the use of the current PRUD standards towards the multiplex and congregate uses proposed with the current Draft R-5A zoning amendments of 200 s.f. per dwelling unit and 6,000 s.f. and usable recreation field area.

We believe that these standards as proposed are both consistent with the current use and zoning of the property and the greater neighborhood. We trust that the Planning Board and staff would support the proposed amendments.

Again, we will be forwarding a formal submittal next week to address other more site-specific questions raised by the Planning Board and the public at the last workshop and look forward to meeting with the Board on May 12th.

Sincerely,

Frederic (Rick) Licht, PE, LSE
Principal

Cc: (via email - PDF copy)

John Wasileski; Sea Coast at Baxter Woods Associates, LLC

Sister Lindora Cabral; Sisters of Mercy of the Americas Northeast Community, Inc.

Daniel Justynski; Sisters of Mercy of the Americas Northeast Community, Inc.

Dennis Keeler; Pierce Atwood, LP

Matt Teare; C/O Sea Coast at Baxter Woods Associates, LLC

David Haynes, RLA; Seacoast Management Company

Kevin Bunker; Motherhouse, LLC

Ron Epstein, Natalie Burns; Jensen, Baird, Gardner & Henry

Pat Carroll; Carroll Associates, Landscape Architects

Andrew Johnston; Fay, Spofford & Thorndike

EXHIBIT 5

SUMMARY MEMORANDUM

TO: Mr. Matthew D. Teare
Director of Development
Sea Coast Management Company
30 Governors Way
Topsham, Maine 04086

DATE: April 29, 2015

RE: Additional Traffic Data for Proposed Zoning Change for Baxter Place in Portland

Introduction

The purpose of this memorandum is to summarize additional traffic information gathered and analysis performed in regard to the proposed zoning request to accommodate Baxter Place on Stevens Avenue in Portland, Maine. It is understood that issues were raised at the last Planning Board workshop regarding older drivers and their safety. In addition, the City Traffic Engineer had requested some information regarding actual trip generation rates for Maine retirement communities since he believed the ITE rates to be low.

Trip Generation Data

It is understood that the City Traffic Engineer requested some information regarding actual trip generation rates for Maine senior housing developments since he believed the ITE rates to be low. It is important to note that Maine Traffic Resources used the newest 9th Edition rates in the analysis, which are higher than the previous 7th Edition rated being used by MaineDOT for traffic permitting purposes.

Maine Traffic Resources has actual PM peak hour trip generation data for The Highlands in Topsham, Maine. The most recent counts were conducted by Maine Traffic Resources on June 19, 2013 from 3:00 – 6:00 PM. The counts were conducted at the intersection of Route 196 and Community Way and at the intersection of Governor's Way and Elm Street to capture all vehicles entering and exiting The Highlands.

The peak hour occurred from 3:00 to 4:00 PM. A total of 119 vehicles were recorded during this peak hour. Trip generation for The Highlands development was based upon the Institute of Transportation Engineers (ITE) "Trip Generation, 9th edition" report. The Highlands development at the time of the 2013 counts included:

- 133 independent cottages
- 116 independent living apartments in the lodges
- 60 assisted living apartments in the lodges
- 7 independent living apartments in the historic Ben Porter House

Trip generation for the development was determined using ITE Land Use Codes (LUC) 251 – Senior Adult Housing – Detached for the 133 cottages, LUC 252 – Senior Adult Housing – Attached for the 123 independent living apartments and LUC 254 – Assisted Living for the 60 assisted living units. The results are summarized below:

<u>Time Period</u>	ITE Projected Trip Generation (Trip-ends)			
	<u>LUC 251</u> <u>Cottages</u>	<u>LUC 252</u> <u>Apts.</u>	<u>LUC 254</u> <u>Assisted</u>	<u>Total</u> <u>Trips</u>
PM Peak Hour – Generator	45	43	21	109

As can be seen above, based upon the most recent 9th Edition ITE data, the overall Highlands development would be expected to generate 109 PM peak hour trips, compared to the 119 measured. These actual measured trip counts do not reflect a major deviation from the ITE data. Based upon the actual Topsham counts, the ITE rates are just 9 % low for the Topsham Maine community. It is also important to point out the Topsham site is more suburban in nature than the proposed Stevens Avenue site, facilitating the need for more vehicle trips as there were no walking trips. In addition, the Portland site is served by regular bus service. As a result, the rates in Portland, given the urban location, are expected to be reflective of the ITE data or even less. Assuming “worst case” and applying the 9 % factor to the proposed Baxter Woods project would increase the PM peak hour trips from 118 to 129 one-way trips.

It is also important to note that the PM peak hour occurred from 3:00 – 4:00 PM for the senior housing development, earlier than the 4:30 – 5:30 peak hour peak hour on Stevens Avenue/Walton Street. The number of trips generated by Baxter Place during this peak hour period will be less.

Safety of Older Drivers

There was concern voiced at the last workshop meeting that senior drivers posed a threat to safety. In order to address this concern, Maine Traffic Resources performed two separate evaluations using Maine Department of Transportation (MaineDOT) accident data. MaineDOT uses two criteria to determine high crash locations (HCLs). The first is the critical rate factor (CRF), which is a measure of the accident rate. A CRF greater than one indicates a location which has a higher than expected accident rate. The expected rate is calculated as a statewide average of similar facilities.

The second criterion, which must also be met, is based upon the number of accidents that occur at a particular location. Eight or more accidents must occur over the three-year study period for the location to be considered a high crash location. Accident data was obtained for all site drive intersections for similar senior housing facilities including Ocean View in Falmouth, Granite Hill in Augusta and Hallowell and The Highlands in Topsham. The CRF and number of accidents are summarized for the most recent three-year period, 2011 to 2013, as follows:

<u>Intersection/Location Description</u>	<u># of Acc.</u>	<u>CRF</u>
Elm Street and Governor's Way in Topsham	0	0
Route 196, Community Way and Village Drive in Topsham	12	0.55
Blueberry Lane and Middle Road in Falmouth	0	0
Blueberry Lane and Falmouth Road in Falmouth	3	0.69
Balsam Drive and Winthrop Street in Hallowell	1	0.48
Balsam Drive and Edison Drive in Augusta	1	0.50

As can be seen above, none of the intersections of the senior housing site drives have a higher than expected accident rate. The CRF at all are less than 1.00 indicating a lesser accident rate than would be expected for this intersection configuration with a similar traffic volume. Based upon this data, it would not appear that drivers to these sort of senior housing developments pose any greater safety risk.

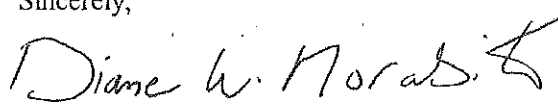
The second analysis looked at statewide accident rates by age range. MainedOT provided five-year accident records by age categories for the period 2009 to 2013. The Maine Bureau of Motor Vehicles was contacted to determine the number of licensed drivers in each age range to determine accident rates by age range. The results are summarized below:

Maine Vehicle Crashes and Licensed Drivers by Age Group			
<u>Age Range</u>	<u># of Crashes</u>	<u># of Drivers</u>	<u>Crash Rate</u>
19 and under	21,999	36,010	0.611
20 – 24	29,861	71,803	0.416
25 – 29	23,700	78,962	0.300
30 – 39	34,682	146,597	0.237
40 – 49	37,963	167,724	0.226
50 - 59	36,115	208,280	0.173
60 – 69	23,542	175,380	0.134
70 and over	<u>16,824</u>	<u>134,162</u>	0.125
	224,686	1,018,918	

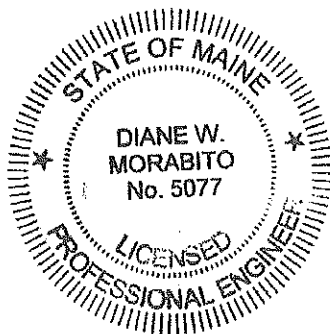
As can be seen above, the number of crashes per driver in Maine is less for older senior drivers than middle aged drivers and certainly young drivers. While this analysis does not take into vehicle miles traveled it does not seem to indicate that older drivers in Maine are a particular threat to public safety.

Please do not hesitate to contact me if you or the City of Portland have any questions regarding this information.

Sincerely,



Diane W. Morabito, P.E. PTOE
President



cc: Rick Licht, Licht Environmental Design, LLC
Tom Errico, TY Lin International
Jean Fraser, City of Portland

SUMMARY MEMORANDUM

TO: Mr. Matthew D. Teare
Director of Development
Sea Coast Management Company
30 Governors Way
Topsham, Maine 04086

DATE: May 4, 2015

RE: Preliminary Traffic Analysis for Proposed Zoning Change for Baxter Place in Portland

Introduction

The purpose of this memorandum is to summarize preliminary traffic analysis performed in regard to the proposed zoning request to accommodate Baxter Place on Stevens Avenue in Portland, Maine. In a meeting held with City staff, the study area for the senior housing development was defined as including the following signalized intersections:

Stevens Avenue and Walton Street
Walton Street and Forest Avenue
Stevens Avenue and Pleasant Avenue

Traffic Volumes

Turning movement/vehicle classification counts were conducted at the three study area intersections during the AM (7:00 – 9:00) and PM (3:00 – 6:00) peak hour periods. The count records are attached to this memorandum. These counts were conducted during the last week of April 2015, which was UNE's last full week of regular classes and when both McAuley High School and Portland City Schools were back from April break. These are expected to be peak volumes for the study area given all of the schools in the immediate area. As a result, no factoring of the late April counts was done to summer conditions for preliminary analysis purposes. The AM peak hour occurred from 7:15 to 8:15 AM at all three study intersections. The PM peak hour occurred in the period between 4:15 and 5:30. These existing 2015 volumes are shown in Figures 1 & 2, attached to this memorandum.

Trip Generation Analysis

Trip generation was performed build out of the currently proposed senior housing development, using the ITE "Trip Generation, 9th edition" for the commuter peak hour periods. It was previously determined that under the R5A zone the maximum number of units that could be developed was 335. It is expected that the development will contain

independent living apartment units as well as some assisted living. The expected split for the maximum 335 units would be 24 assisted living units and 311 independent living units. Land use codes 252 – Senior Adult Housing – Attached and 254 - Assisted Living were used on the basis of dwelling units for the senior housing option. The results for the peak hours are summarized below:

Projected ITE Trip Generation (one-way trip-ends) Build Out of Proposed Senior Housing Development					
<u>Time Period</u>	311 Senior Living Attached Units		24 Assisted Living Units		Total Trips
	<u>Rate</u>	<u>Trips</u>	<u>Rate</u>	<u>Trips</u>	
AM Peak Hour – Adjacent Street	0.19	59	0.18	4	63
Entering		21		3	24
Exiting		38		1	39
PM Peak Hour – Adjacent Street	0.27	84	0.29	7	91
Entering		51		3	54
Exiting		33		4	37

As can be seen above, the facility will generate fewer than 100 trips during the peak hours of the adjacent street system, the commuter hours. The Baxter Place trips were assigned to the study area intersections based upon the travel patterns recorded during the turning movement counts. The resulting trip assignments are shown in Figure 3. Generally in Maine, the study area extends to where one can trace 25 to 35 trips in a lane in an hour. The proposed senior housing development, at full build out, is projected to have a maximum of 27 lane hour trips. Given these trip assignment results, minimal impact is expected at the study area intersections. However, some preliminary capacity analysis was performed to determine existing conditions and to see if there are any existing deficiencies that would need to be addressed to accommodate Baxter Place.

Capacity Analysis

Traffic operations are evaluated in terms of level of service (LOS). Level of service is a qualitative measure that describes operations by letter designation. The levels range from A - very little delay to F - extreme delays. Level of service "D" is generally considered acceptable in urban locations while LOS "E" is generally considered the capacity of a facility and the minimum tolerable level. The level of service for signalized intersections is based upon average control delay per vehicle, as defined in the following table excerpted from the 2000 "Highway Capacity Manual":

Signalized Intersection Level of Service	
LOS	Control Delay per Vehicle
A	<= 10.0 seconds
B	> 10.0 and <= 20.0
C	> 20.0 and <= 35.0
D	> 35.0 and <= 55.0
E	> 55.0 and <= 80.0
F	> 80.0

Signalized Intersection Analysis

Synchro 7 was used to analyze the study area intersections under existing 2015 conditions to determine existing operations. The results are attached to this memorandum and are summarized in the following tables with the LOS followed by the associated delay in seconds:

Intersection of Stevens Avenue and Walton Street	
Existing Peak Hour Levels of Service	
<u>Approach/Movement</u>	<u>2015 AM</u>
Westbound Walton Street	B (17.0)
Northbound Stevens Avenue Rights	A (7.1)
Northbound Stevens Avenue Throughs	B (15.9)
Northbound Stevens Avenue Overall	B (10.8)
Southbound Stevens Avenue Lefts	A (4.6)
Southbound Stevens Avenue Throughs	A (5.2)
Southbound Stevens Avenue Overall	A (5.1)
Overall Intersection	B (10.1)
<u>Approach/Movement</u>	<u>2015 PM</u>
Westbound Walton Street	B (17.6)
Northbound Stevens Avenue Rights	A (7.2)
Northbound Stevens Avenue Throughs	B (12.1)
Northbound Stevens Avenue Overall	B (11.2)
Southbound Stevens Avenue Lefts	A (4.8)
Southbound Stevens Avenue Throughs	A (5.2)
Southbound Stevens Avenue Overall	A (5.1)
Overall Intersection	A (9.3)

As can be seen above, the Walton and Stevens Avenue intersection operates at LOS “B” overall in the AM peak hour and at LOS “A” overall in the PM peak hour with all movements at LOS “B” or better. Based upon this level of service and the proposed trip assignments, there is currently plenty of capacity at this intersection to accommodate Baxter

Place. No capacity concerns or constraints were identified by the analysis or observed in the field during the counts.

**Intersection of Walton Street and Forest Avenue
Existing Peak Hour Levels of Service**

<u>Approach/Movement</u>	<u>2015 AM</u>
Eastbound Walton Street Lefts/Throughs	C (20.3)
Eastbound Walton Street Rights	B (18.3)
Eastbound Walton Street Overall	B (19.7)
Westbound Walton Street Lefts/Throughs	C (28.0)
Westbound Walton Street Rights	B (18.6)
Westbound Walton Street Overall	C (25.1)
Northbound Forest Avenue Lefts	B (13.4)
Northbound Forest Avenue Throughs/Rights	B (14.2)
Northbound Forest Avenue Overall	B (14.1)
Southbound Forest Avenue Lefts	A (8.2)
Southbound Forest Avenue Throughs/Rights	C (30.4)
Southbound Forest Avenue Overall	C (28.5)
Overall Intersection	C (22.5)

<u>Approach/Movement</u>	<u>2015 PM</u>
Eastbound Walton Street Lefts/Throughs	C (20.3)
Eastbound Walton Street Rights	B (18.2)
Eastbound Walton Street Overall	B (19.5)
Westbound Walton Street Lefts/Throughs	C (22.1)
Westbound Walton Street Rights	B (18.4)
Westbound Walton Street Overall	C (20.5)
Northbound Forest Avenue Lefts	A (7.5)
Northbound Forest Avenue Throughs/Rights	B (18.5)
Northbound Forest Avenue Overall	B (18.0)
Southbound Forest Avenue Lefts	B (10.2)
Southbound Forest Avenue Throughs/Rights	B (12.9)
Southbound Forest Avenue Overall	B (12.6)
Overall Intersection	B (16.6)

As can be seen above, the intersection of Walton Street and Forest Avenue also operates at good levels of service during both the AM and PM peak hour periods, at LOS "C" and "B" respectively. All lane movements currently operate at LOS "C" or better. Again, given the limited trip assignments for Baxter Place and these current operations no capacity concerns are anticipated at this intersection.

**Intersection of Stevens Avenue and Pleasant Avenue
Existing Peak Hour Levels of Service**

<u>Approach/Movement</u>	<u>2015 AM</u>
Eastbound Pleasant Avenue	B (14.0)
Westbound Pleasant Avenue	B (12.9)
Northbound Stevens Avenue	A (7.8)
Southbound Stevens Avenue	B (16.7)
Overall Intersection	B (13.2)

Existing PM Peak Hour Levels of Service

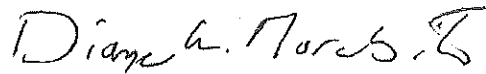
<u>Approach/Movement</u>	<u>2015 PM</u>
Eastbound Pleasant Avenue	B (15.9)
Westbound Pleasant Avenue	B (14.7)
Northbound Stevens Avenue	A (7.2)
Southbound Stevens Avenue	A (8.7)
Overall Intersection	A (9.3)

Lastly, as seen above, the intersection of Stevens Avenue and Pleasant Avenue was also found to operate at good levels of service during both peak hours at "A" and "B". Again, no capacity concerns were identified and Baxter Place is expected to have minimal impact on this intersection given the trip assignments.

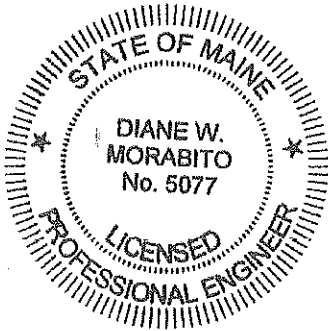
To summarize, the existing conditions analysis found that all three signalized study area intersections function at good levels of service during both the AM and PM peak hour periods. Given the limited number of trips to be generated by Baxter Place (which generally would have minimal or insignificant impact) during these commuter peak hours and these good levels of service no capacity concerns are anticipated. More detailed traffic analysis and study will be performed at the site plan review level. However, given these existing conditions results and the trip generation of Baxter Place at full build out no significant traffic issues are expected in the final traffic permitting process.

As always, please do not hesitate to contact me if you or the City of Portland have any questions regarding this preliminary analysis.

Sincerely,



Diane W. Morabito, P.E. PTOE
President



cc: Rick Licht, Licht Environmental Design, LLC
Tom Errico, TY Lin International
Jean Fraser, City of Portland

Maine Traffic Resources

25 Vine Street

Gardiner, ME 04345

mainetrafficresources.com

Stevens Avenue and Walton Street

City: Portland

Counter: DWM

Weather: Sun/Clouds

File Name : PortlandStevensWaltonAM

Site Code : 00011334

Start Date : 4/28/2015

Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

Start Time	Stevens Avenue From North					Walton Street From East					Stevens Avenue From South					From West					App. Total	Int. Total
	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total		
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0			
07:00 AM	0	83	5	0	88	12	0	16	0	28	13	60	0	0	73	0	0	0	0	0	0	189
07:15 AM	0	96	22	0	118	26	0	23	1	50	31	87	0	0	118	0	0	0	0	0	0	286
07:30 AM	0	123	6	0	129	40	0	31	3	74	31	121	0	0	152	0	0	0	0	0	0	355
07:45 AM	0	123	11	0	134	39	0	39	8	86	12	111	0	3	126	0	0	0	0	0	0	346
Total	0	425	44	0	469	117	0	109	12	238	87	379	0	3	469	0	0	0	0	0	0	1176
08:00 AM	0	90	8	0	98	18	0	12	1	31	19	76	0	1	96	0	0	0	0	0	0	225
08:15 AM	0	85	9	0	94	8	0	14	2	24	15	73	0	0	88	0	0	0	0	0	0	206
08:30 AM	0	89	11	0	100	27	0	7	8	42	19	83	0	0	102	0	0	0	0	0	0	244
08:45 AM	0	106	8	1	115	19	0	14	5	38	16	83	0	0	99	0	0	0	0	0	0	252
Total	0	370	36	1	407	72	0	47	16	135	69	315	0	1	385	0	0	0	0	0	0	927
Grand Total	0	795	80	1	876	189	0	156	28	373	156	694	0	4	854	0	0	0	0	0	0	2103
Apprch %	0.0	90.8	9.1	0.1		50.7	0.0	41.8	7.5		18.3	81.3	0.0	0.5		0.0	0.0	0.0	0.0			
Total %	0.0	37.8	3.8	0.0	41.7	9.0	0.0	7.4	1.3	17.7	7.4	33.0	0.0	0.2	40.6	0.0	0.0	0.0	0.0	0.0	0.0	

Start Time	Stevens Avenue From North					Walton Street From East					Stevens Avenue From South					From West					App. Total	Int. Total
	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s			
Peak Hour	From 07:00 AM to 08:45 AM - Peak 1 of 1																					
Intersection	07:15 AM																					
Volume	0	432	47	0	479	123	0	105	13	241	93	395	0	4	492	0	0	0	0	0	1212	
Percent	0.0	90.2	9.8	0.0		51.0	0.0	43.6	5.4		18.9	80.3	0.0	0.8		0.0	0.0	0.0	0.0			
07:30 Volume	0	123	6	0	129	40	0	31	3	74	31	121	0	0	152	0	0	0	0	0	355	
Peak Factor																						0.854
High Int. Volume	07:45 AM					07:45 AM					07:30 AM					6:45:00 AM						
Peak Factor	0	123	11	0	134	39	0	39	8	86	31	121	0	0	152							
					0.894					0.701					0.809							

mainetrafficresources.com

Weather: Clouds/Shower/Sun

Page No : 1

Walton Street
From West

	Start Time	Forest Avenue From North					Walton Street From East					Forest Avenue From South					Walton Street From West					App. Total	Int. Total
		Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total		
Peak Hour From 07:00 AM to 08:45 AM - Peak 1 of 1																							
Intersection	07:15 AM																						
Volume	26	753	72	4	856	88	155	43	3	289	12	550	92	0	654	50	76	27	5	158	1956		
Percent	3.0	88.1	8.4	0.5		30.4	53.6	14.9	1.0		1.8	84.1	14.1	0.0		31.6	48.1	17.1	3.2				
07:45 Volume	4	206	23	0	233	24	41	18	1	84	3	151	26	0	180	17	17	7	2	43	540		
Peak Factor	0.90																						
High Int. Volume	07:45 AM					07:30 AM					07:45 AM					07:30 AM							
Peak Factor	4	206	23	0	233	34	52	11	1	98	3	151	26	0	180	14	21	10	1	46			
					0.91					0.73					0.90					0.85			
					7					7					8					9			

Maine Traffic Resources

25 Vine Street

Gardiner, ME 04345

mainetrafficresources.com

Stevens Avenue and Pleasant Avenue

City: Portland

Counter: DMF

Weather: Sun/Clouds/Shower

File Name : PortlandStevensPleasantAM

Site Code : 00001112

Start Date : 4/29/2015

Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

Start Time	Stevens Ave From North					Pleasant Ave From East					Stevens Ave From South					Pleasant Ave From West					App. Total	Int. Total
	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total		
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0			
07:00 AM	4	71	4	5	84	4	2	6	4	16	2	44	1	1	48	3	7	11	5	26	174	
07:15 AM	5	114	7	3	129	8	4	9	11	32	4	100	5	3	112	8	5	34	7	54	327	
07:30 AM	8	130	8	1	147	11	14	8	5	38	5	95	1	3	104	8	13	33	4	58	347	
07:45 AM	9	147	5	3	164	13	16	10	10	49	3	85	4	7	99	9	10	14	21	54	366	
Total	26	462	24	12	524	36	36	33	30	135	14	324	11	14	363	28	35	92	37	192	1214	
08:00 AM	8	97	9	1	115	7	7	9	2	25	3	72	5	2	82	3	9	11	17	40	262	
08:15 AM	7	80	7	2	96	6	3	4	3	16	2	65	5	1	73	8	4	12	3	27	212	
08:30 AM	9	77	5	8	99	7	5	12	11	35	2	66	3	2	73	9	7	8	12	36	243	
08:45 AM	2	97	7	3	109	13	5	9	2	29	3	67	2	1	73	10	7	14	15	46	257	
Total	26	351	28	14	419	33	20	34	18	105	10	270	15	6	301	30	27	45	47	149	974	
Grand Total	52	813	52	26	943	69	56	67	48	240	24	594	26	20	664	58	62	137	84	341	2188	
Apprch %	5.5	86.2	5.5	2.8		28.8	23.3	27.9	20.0		3.6	89.5	3.9	3.0		17.0	18.2	40.2	24.6			
Total %	2.4	37.2	2.4	1.2	43.1	3.2	2.6	3.1	2.2	11.0	1.1	27.1	1.2	0.9	30.3	2.7	2.8	6.3	3.8	15.6		

	Stevens Ave From North					Pleasant Ave From East					Stevens Ave From South					Pleasant Ave From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Peak Hour	From 07:00 AM to 08:45 AM - Peak 1 of 1																					
Intersection	07:15 AM																					
Volume	30	488	29	8	555	39	41	36	28	144	15	352	15	15	397	28	37	92	49	206	1302	
Percent	5.4	87.9	5.2	1.4		27.1	28.5	25.0	19.4		3.8	88.7	3.8	3.8		13.6	18.0	44.7	23.8			
07:45 Volume	9	147	5	3	164	13	16	10	10	49	3	85	4	7	99	9	10	14	21	54	366	
Peak Factor	0.889																					
High Int. Volume	07:45 AM					07:45 AM					07:15 AM					07:30 AM						
Peak Factor	9	147	5	3	164	13	16	10	10	49	4	100	5	3	112	8	13	33	4	58		
	0.846					0.735					0.886					0.888						

Maine Traffic Resources

25 Vine Street

Gardiner, ME 04345

mainetrafficresources.com

Stevens Avenue and Walton Street

City: Portland

Counter: DWM

Weather: Sun/Clouds

File Name : PortlandStevensWaltonPM

Site Code : 00022667

Start Date : 4/28/2015

Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

Start Time	Stevens Avenue From North					Walton Street From East					Stevens Avenue From South					From West					App. Total	Int. Total
	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total		
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0			
03:00 PM	0	88	11	1	100	10	0	24	6	40	21	94	0	0	115	0	0	0	0	0	0	255
03:15 PM	0	81	12	0	93	11	0	18	4	33	22	105	0	2	129	0	0	0	0	0	0	255
03:30 PM	0	114	22	0	136	10	0	19	3	32	15	97	0	0	112	0	0	0	0	0	0	280
03:45 PM	0	86	20	2	108	5	0	12	4	21	28	110	0	0	138	0	0	0	0	0	0	267
Total	0	369	65	3	437	36	0	73	17	126	86	406	0	2	494	0	0	0	0	0	0	1057
04:00 PM	0	97	24	0	121	18	0	24	2	44	30	112	0	0	142	0	0	0	0	0	0	307
04:15 PM	0	95	11	0	106	13	0	20	14	47	21	101	0	0	122	0	0	0	0	0	0	275
04:30 PM	0	131	28	3	162	13	0	30	4	47	29	109	0	0	138	0	0	0	0	0	0	347
04:45 PM	0	108	22	0	130	17	0	21	4	42	24	127	0	0	151	0	0	0	0	0	0	323
Total	0	431	85	3	519	61	0	95	24	180	104	449	0	0	553	0	0	0	0	0	0	1252
05:00 PM	0	134	33	3	170	15	0	33	6	54	15	112	0	0	127	0	0	0	0	0	0	351
05:15 PM	0	116	21	1	138	19	0	28	1	48	29	94	0	0	123	0	0	0	0	0	0	309
05:30 PM	0	87	14	1	102	14	0	40	2	56	23	115	0	0	138	0	0	0	0	0	0	296
05:45 PM	0	108	11	2	121	11	0	25	1	37	24	96	0	0	120	0	0	0	0	0	0	278
Total	0	445	79	7	531	59	0	126	10	195	91	417	0	0	508	0	0	0	0	0	0	1234
Grand Total	0	1245	229	13	1487	156	0	294	51	501	281	1272	0	2	1555	0	0	0	0	0	0	3543
Apprch %	0.0	83.7	15.4	0.9		31.1	0.0	58.7	10.2		18.1	81.8	0.0	0.1		0.0	0.0	0.0	0.0			
Total %	0.0	35.1	6.5	0.4	42.0	4.4	0.0	8.3	1.4	14.1	7.9	35.9	0.0	0.1	43.9	0.0	0.0	0.0	0.0	0.0	0.0	

	Stevens Avenue From North					Walton Street From East					Stevens Avenue From South					From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Peak Hour	From 03:00 PM to 05:45 PM - Peak 1 of 1																					
Intersection	04:30 PM																					
Volume	0	489	104	7	600	64	0	112	15	191	97	442	0	0	539	0	0	0	0	0	1330	
Percent	0.0	81.5	17.3	1.2		33.5	0.0	58.6	7.9		18.0	82.0	0.0	0.0		0.0	0.0	0.0	0.0			
05:00 Volume	0	134	33	3	170	15	0	33	6	54	15	112	0	0	127	0	0	0	0	0	351	
Peak Factor	0.947																					
High Int. Volume	05:00 PM	0	134	33	3	170	05:00 PM	0	33	6	54	04:45 PM	24	127	0	0	151	2:45:00 PM				
Peak Factor					0.882					0.884					0.892							

Maine Traffic Resources

25 Vine Street

Gardiner, ME 04345

mainetrafficresources.com

Forest Avenue and Walton Street

City: Portland

Counter: DMF

Weather: Clouds/Sun

File Name : PortlandForestWaltonPM

Site Code : 00001111

Start Date : 4/28/2015

Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

	Forest Avenue From North					Walton Street From East					Forest Avenue From South					Walton Street From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Factor	1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0			
03:00 PM	0	150	6	0	156	31	21	11	2	65	7	200	8	1	216	15	20	6	0	41	478	
03:15 PM	3	163	10	1	177	19	18	7	4	48	12	191	7	1	211	13	17	1	2	33	469	
03:30 PM	6	197	7	1	211	20	13	11	7	51	4	194	6	2	206	12	9	2	5	28	496	
03:45 PM	1	169	13	0	183	15	17	10	5	47	4	194	4	1	203	17	17	6	4	44	477	
Total	10	679	36	2	727	85	69	39	18	211	27	779	25	5	836	57	63	15	11	146	1920	
04:00 PM	6	143	21	1	171	26	23	11	4	64	5	191	10	0	206	13	22	8	2	45	486	
04:15 PM	9	146	11	1	167	28	24	8	2	62	10	193	8	0	211	6	24	3	1	34	474	
04:30 PM	9	165	19	0	193	25	18	16	1	60	6	178	13	0	197	20	21	13	1	55	505	
04:45 PM	3	159	20	0	182	21	21	8	2	52	11	188	8	0	207	14	21	3	2	40	481	
Total	27	613	71	2	713	100	86	43	9	238	32	750	39	0	821	53	88	27	6	174	1946	
05:00 PM	11	154	25	3	193	32	30	13	3	78	7	175	9	0	191	21	22	3	4	50	512	
05:15 PM	9	171	22	1	203	16	25	10	2	53	8	148	6	0	162	17	21	8	3	49	467	
05:30 PM	7	152	10	0	169	19	17	6	2	44	8	176	8	2	194	18	21	4	3	46	453	
05:45 PM	4	159	6	1	170	13	21	6	0	40	11	165	7	0	183	9	23	3	2	37	430	
Total	31	636	63	5	735	80	93	35	7	215	34	664	30	2	730	65	87	18	12	182	1862	
Grand Total	68	1928	170	9	2175	265	248	117	34	664	93	2193	94	7	2387	175	238	60	29	502	5728	
Apprch %	3.1	88.6	7.8	0.4		39.9	37.3	17.6	5.1		3.9	91.9	3.9	0.3		34.9	47.4	12.0	5.8			
Total %	1.2	33.7	3.0	0.2	38.0	4.6	4.3	2.0	0.6	11.6	1.6	38.3	1.6	0.1	41.7	3.1	4.2	1.0	0.5	8.8		

	Forest Avenue From North					Walton Street From East					Forest Avenue From South					Walton Street From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Peak Hour From 03:00 PM to 05:45 PM - Peak 1 of 1																						
Intersection	04:15 PM																					
Volume	32	624	75	4	735	106	93	45	8	252	34	734	38	0	806	61	88	22	8	179	1972	
Percent	4.4	84.9	10.2	0.5		42.1	36.9	17.9	3.2		4.2	91.1	4.7	0.0		34.1	49.2	12.3	4.5			
05:00 Volume	11	154	25	3	193	32	30	13	3	78	7	175	9	0	191	21	22	3	4	50	512	
Peak Factor	0.963																					
High Int. Volume	04:30 PM					05:00 PM					04:15 PM					04:30 PM						
Peak Factor	9	165	19	0	193	32	30	13	3	78	10	193	8	0	211	20	21	13	1	55		
					0.95					0.80					0.95					0.81		
					2					8					5					4		

Maine Traffic Resources
25 Vine Street

Pleasant and Stevens Avenues
 City: Portland
 Counter: DMF
 Weather: Cloudy

Gardiner, ME 04345
 mainetrafficresources.com

File Name : PortlandStevensPleasantPM
 Site Code : 00001113
 Start Date : 4/29/2015
 Page No : 1

Groups Printed- Passenger Vehicles - Light Trucks - Heavy Trucks

	Stevens Avenue From North					Pleasant Ave From East					Stevens Ave From South					Pleasant Ave From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Factor	1.0	1.0	1.0	1.0			1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		1.0	1.0	1.0	1.0		
03:00 PM	7	94	9	3	113	4	7	2	12	25	0	80	1	7	88	2	7	8	9	26	252	
03:15 PM	5	92	5	3	105	10	6	3	4	23	1	92	3	1	97	5	11	8	7	31	256	
03:30 PM	5	100	9	6	120	6	12	2	6	26	4	89	1	4	98	4	11	11	1	27	271	
03:45 PM	3	103	3	5	114	8	6	6	5	25	7	87	3	0	97	5	3	9	3	20	256	
Total	20	389	26	17	452	28	31	13	27	99	12	348	8	12	380	16	32	36	20	104	1035	
04:00 PM	4	91	2	15	112	10	8	2	13	33	1	91	7	2	101	5	6	6	4	21	267	
04:15 PM	5	113	8	3	129	15	6	5	8	34	3	102	4	1	110	7	9	12	2	30	303	
04:30 PM	7	97	2	6	112	12	5	2	10	29	3	132	3	1	139	4	13	10	9	36	316	
04:45 PM	4	104	5	1	114	11	7	2	6	26	6	123	5	1	135	2	2	9	6	19	294	
Total	20	405	17	25	467	48	26	11	37	122	13	448	19	5	485	18	30	37	21	106	1180	
05:00 PM	7	116	5	3	131	18	9	4	14	45	4	126	5	2	137	9	8	17	4	38	351	
05:15 PM	14	120	7	8	149	16	16	3	5	40	2	144	7	1	154	5	7	13	1	26	369	
05:30 PM	8	99	2	6	115	7	10	5	4	26	5	101	4	3	113	5	6	1	3	25	279	
05:45 PM	4	83	6	3	96	10	12	5	7	34	4	90	3	3	100	4	9	8	10	31	261	
Total	33	418	20	20	491	51	47	17	30	145	15	461	19	9	504	23	30	49	18	120	1260	
Grand Total	73	1212	63	62	1410	127	104	41	94	366	40	1257	46	26	1369	57	92	122	59	330	3475	
Apprch %	5.2	86.0	4.5	4.4		34.7	28.4	11.2	25.7		2.9	91.8	3.4	1.9		17.3	27.9	37.0	17.9			
Total %	2.1	34.9	1.8	1.8	40.6	3.7	3.0	1.2	2.7	10.5	1.2	36.2	1.3	0.7	39.4	1.6	2.6	3.5	1.7	9.5		

	Stevens Avenue From North					Pleasant Ave From East					Stevens Ave From South					Pleasant Ave From West					App. Total	Int. Total
	Start Time	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s	App. Total	Rig ht	Thr u	Left	Ped s		
Peak Hour	From 03:00 PM to 05:45 PM - Peak 1 of 1																					
Intersection	04:30 PM																					
Volume	32	437	19	18	506	57	37	11	35	140	15	525	20	5	565	20	30	49	20	119	1330	
Percent	6.3	86.4	3.8	3.6		40.7	26.4	7.9	25.0		2.7	92.9	3.5	0.9		16.8	25.2	41.2	16.8			
05:15 Volume	14	120	7	8	149	16	16	3	5	40	2	144	7	1	154	5	7	13	1	26	369	
Peak Factor	0.901																					
High Int.	05:15 PM					05:00 PM					05:15 PM					05:00 PM						
Volume	14	120	7	8	149	18	9	4	14	45	2	144	7	1	154	9	8	17	4	38		
Peak Factor	0.849										0.778					0.917					0.783	



Not To Scale

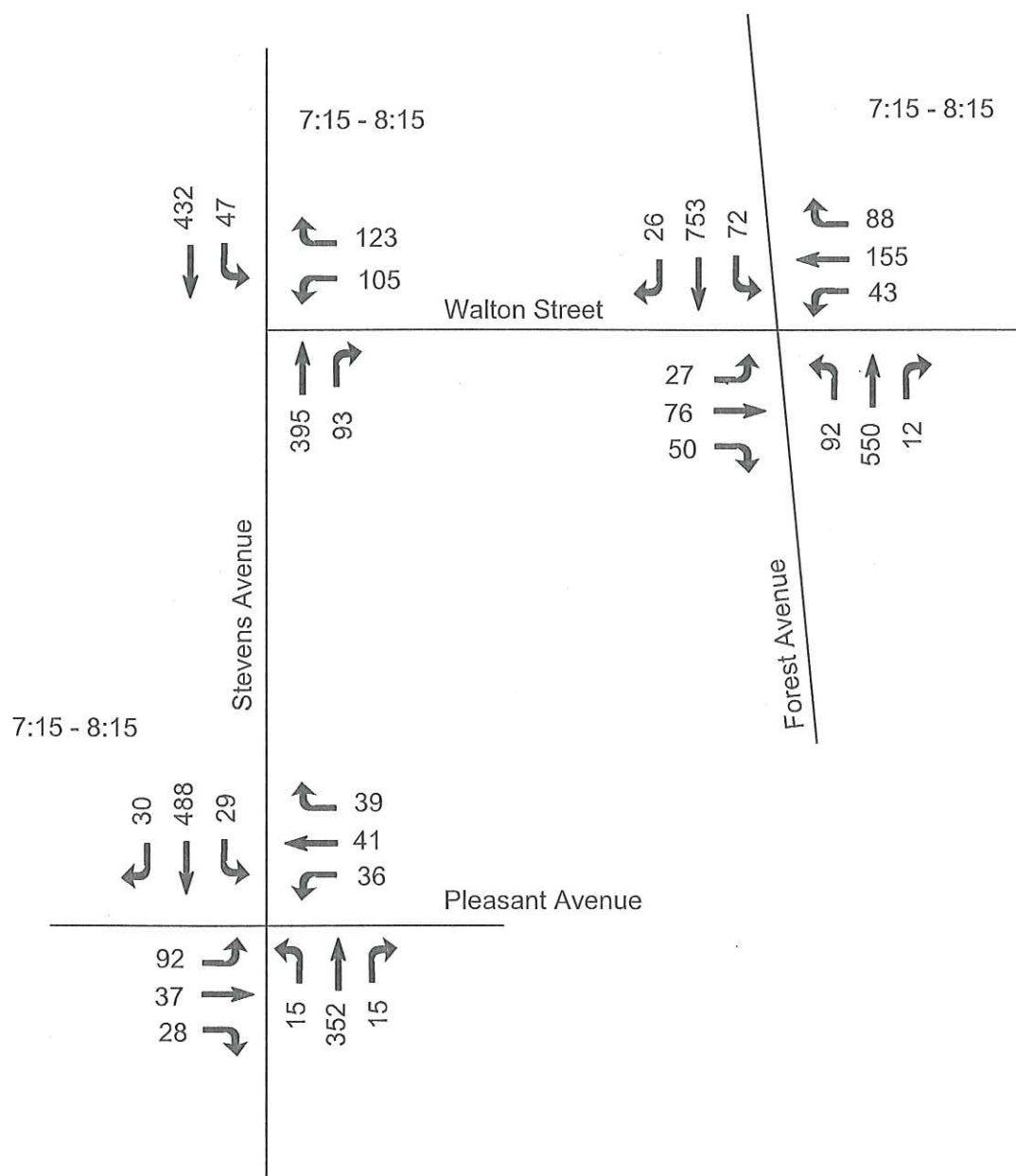


Figure 1

2015 Existing AM Peak Hour Volumes

Baxter Place

Portland, Maine

Maine
Traffic
Resources

25 Vine Street
Gardiner, ME
04345
tel: (207) 582-5252
fax: (207) 582-1677



Not To Scale

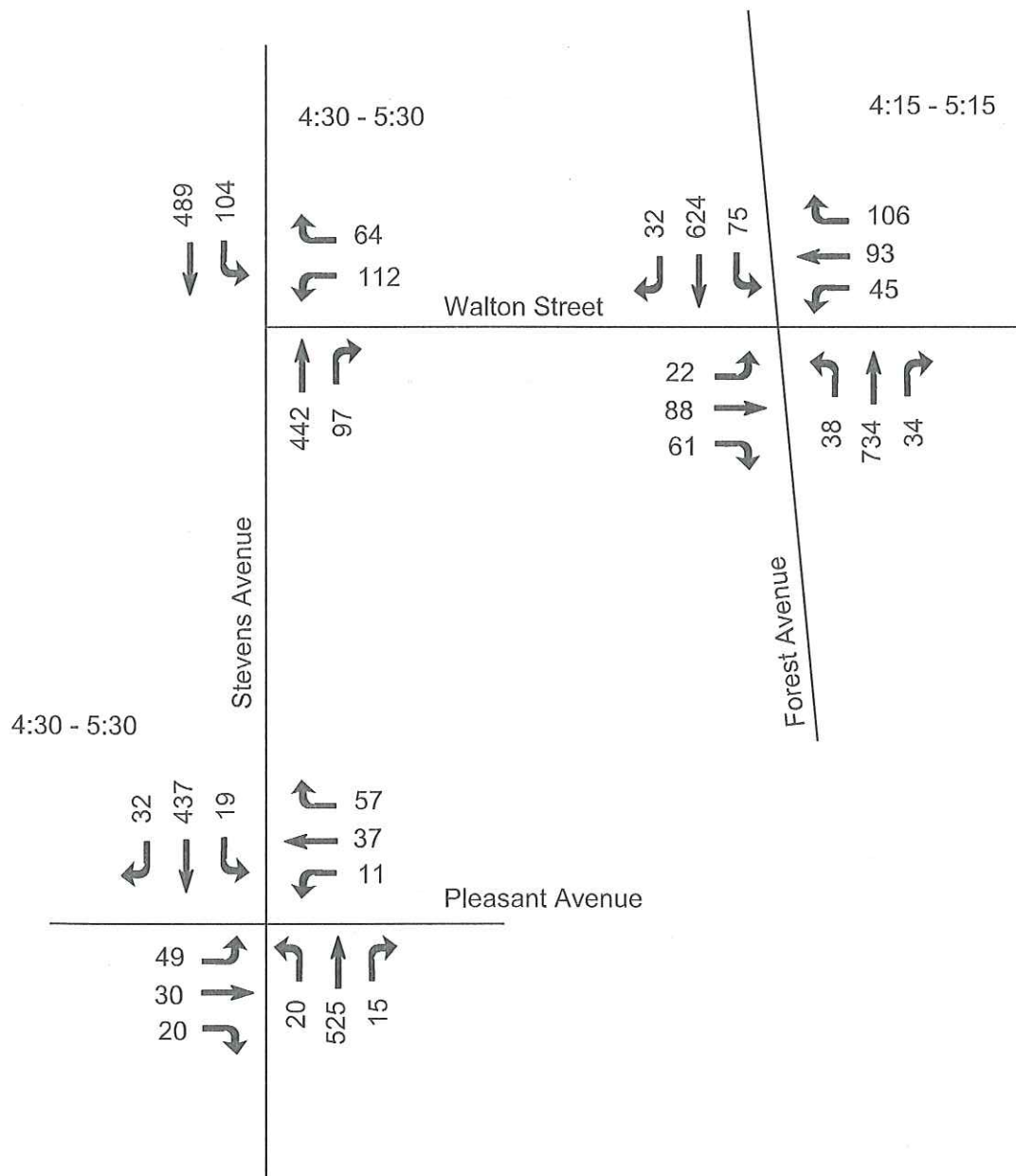


Figure 2

2015 Existing PM Peak Hour Volumes

Baxter Place

Portland, Maine

**Maine
Traffic
Resources**

25 Vine Street
Gardiner, ME
04345
tel: (207) 582-5252
fax: (207) 582-1677



Not To Scale

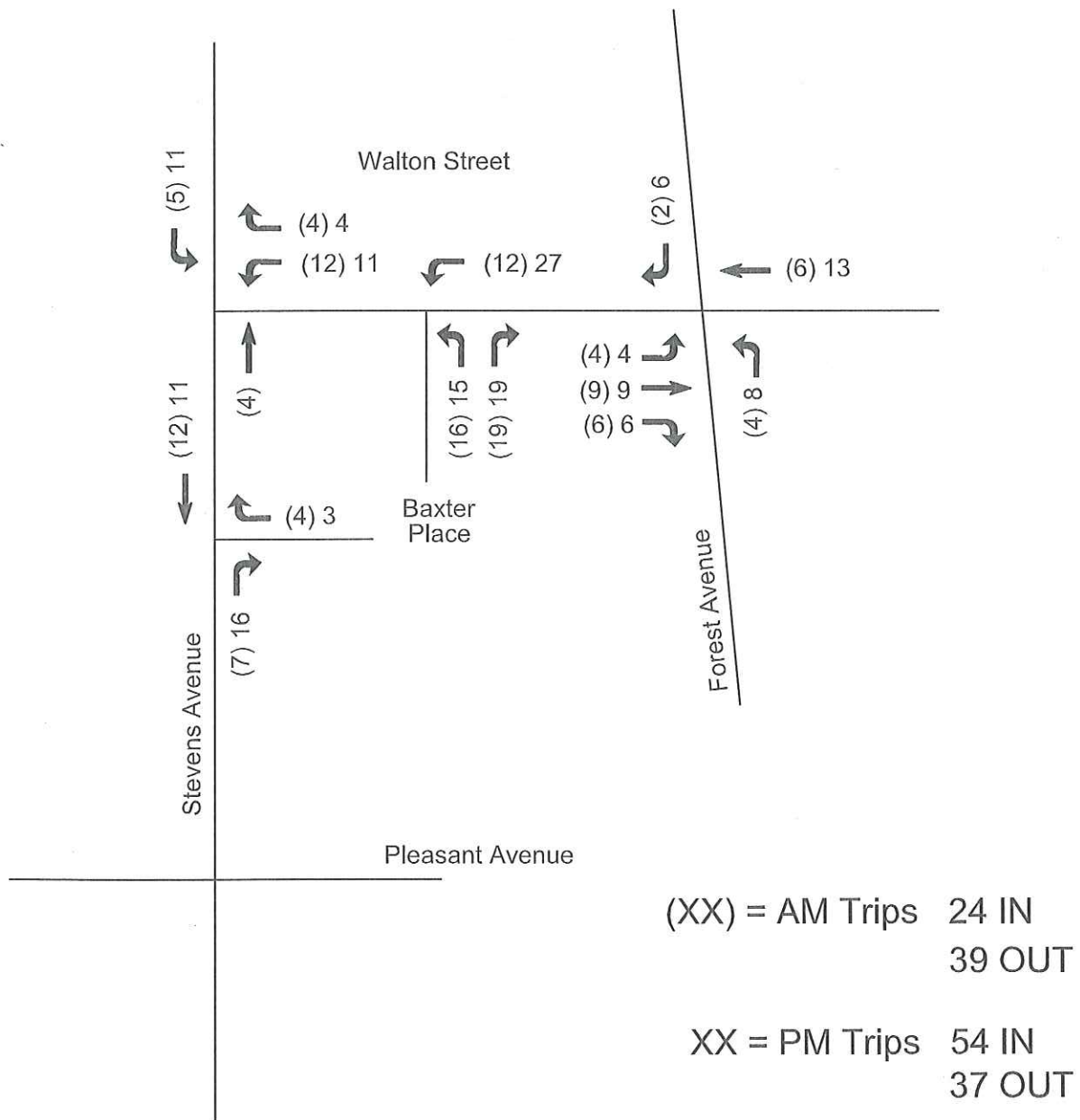


Figure 3

Peak Hour Trip Assignments

Baxter Place

Portland, Maine

Maine
Traffic
Resources

25 Vine Street
Gardiner, ME
04345
tel: (207) 582-5252
fax: (207) 582-1677

Lanes, Volumes, Timings
9: Pleasant Ave & Stevens Ave

5/1/2015

												
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12	12	12	12	12	12	12
Grade (%)		0%			0%			0%			0%	
Storage Length (ft)	0		0	0		0	0		0	0		0
Storage Lanes	0		0	0		0	0		0	0		0
Taper Length (ft)	25		25	25		25	25		25	25		25
Right Turn on Red			Yes			Yes			Yes			Yes
Link Speed (mph)		30			30			30			30	
Link Distance (ft)		1219			1121			280			1491	
Travel Time (s)		27.7			25.5			6.4			33.9	

Intersection Summary

Area Type: Other

Timings

9: Pleasant Ave & Stevens Ave

5/1/2015

								
Lane Group	EBL	EBT	WBL	WBT	NBL	NBT	SBL	SBT
Lane Configurations								
Volume (vph)	92	37	36	41	15	352	29	488
Turn Type	Perm		Perm		Perm		Perm	
Protected Phases		4		8		2		6
Permitted Phases	4		8		2		6	
Detector Phase	4	4	8	8	2	2	6	6
Switch Phase								
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	21.0	21.0
Total Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	21.0	21.0
Total Split (%)	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Lead/Lag								
Lead-Lag Optimize?								
Recall Mode	None	None	None	None	Max	Max	Max	Max
Act Effct Green (s)		9.3		9.3		20.1		20.1
Actuated g/C Ratio		0.26		0.26		0.55		0.55
v/c Ratio		0.46		0.36		0.45		0.76
Control Delay		13.0		9.8		9.5		21.5
Queue Delay		0.0		0.0		0.0		0.0
Total Delay		13.0		9.8		9.5		21.5
LOS		B		A		A		C
Approach Delay		13.0		9.8		9.5		21.5
Approach LOS		B		A		A		C

Intersection Summary

Cycle Length: 42

Actuated Cycle Length: 36.3

Natural Cycle: 60

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.76

Intersection Signal Delay: 15.5

Intersection Capacity Utilization 62.8%

Analysis Period (min) 15

Intersection LOS: B

ICU Level of Service B

Splits and Phases: 9: Pleasant Ave & Stevens Ave

 02	 04
21 s	21 s
 06	 08
21 s	21 s

Queues

9: Pleasant Ave & Stevens Ave

5/1/2015

	→	←	↑	↓
Lane Group	EBT	WBT	NBT	SBT
Lane Group Flow (vph)	179	158	434	652
v/c Ratio	0.46	0.36	0.45	0.76
Control Delay	13.0	9.8	9.5	21.5
Queue Delay	0.0	0.0	0.0	0.0
Total Delay	13.0	9.8	9.5	21.5
Queue Length 50th (ft)	23	16	52	101
Queue Length 95th (ft)	55	33	135	#292
Internal Link Dist (ft)	1139	1041	200	1411
Turn Bay Length (ft)				
Base Capacity (vph)	652	714	969	862
Starvation Cap Reductn	0	0	0	0
Spillback Cap Reductn	0	0	0	0
Storage Cap Reductn	0	0	0	0
Reduced v/c Ratio	0.27	0.22	0.45	0.76

Intersection Summary

- # 95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

HCM Signalized Intersection Capacity Analysis

9: Pleasant Ave & Stevens Ave

5/1/2015

												
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Volume (vph)	92	37	28	36	41	39	15	352	15	29	488	30
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		5.0			5.0			5.0			5.0	
Lane Util. Factor		1.00			1.00			1.00			1.00	
Frpb, ped/bikes		0.99			0.98			1.00			1.00	
Flpb, ped/bikes		0.99			1.00			1.00			1.00	
Frt		0.98			0.95			0.99			0.99	
Flt Protected		0.97			0.98			1.00			1.00	
Satd. Flow (prot)		1757			1752			1797			1605	
Flt Permitted		0.79			0.87			0.97			0.96	
Satd. Flow (perm)		1435			1545			1743			1551	
Peak-hour factor, PHF	0.88	0.88	0.88	0.73	0.73	0.73	0.88	0.88	0.88	0.84	0.84	0.84
Adj. Flow (vph)	105	42	32	49	56	53	17	400	17	35	581	36
RTOR Reduction (vph)	0	23	0	0	41	0	0	3	0	0	4	0
Lane Group Flow (vph)	0	156	0	0	117	0	0	431	0	0	648	0
Confl. Peds. (#/hr)	12		12	12		12	8		8	6		6
Confl. Bikes (#/hr)			8			8			8			8
Heavy Vehicles (%)	1%	1%	1%	0%	0%	0%	4%	4%	4%	3%	3%	1%
Bus Blockages (#/hr)	0	0	0	0	0	0	0	2	0	0	0	0
Parking (#/hr)											4	
Turn Type	Perm			Perm			Perm			Perm		
Protected Phases		4			8			2			6	
Permitted Phases	4			8			2			6		
Actuated Green, G (s)		8.2			8.2			19.1			19.1	
Effective Green, g (s)		8.2			8.2			19.1			19.1	
Actuated g/C Ratio		0.22			0.22			0.51			0.51	
Clearance Time (s)		5.0			5.0			5.0			5.0	
Vehicle Extension (s)		3.0			3.0			3.0			3.0	
Lane Grp Cap (vph)		315			340			893			794	
v/s Ratio Prot												
v/s Ratio Perm		c0.11			0.08			0.25			c0.42	
v/c Ratio		0.49			0.34			0.48			0.82	
Uniform Delay, d1		12.7			12.3			5.9			7.6	
Progression Factor		1.00			1.00			1.00			1.00	
Incremental Delay, d2		1.2			0.6			1.9			9.1	
Delay (s)		14.0			12.9			7.8			16.7	
Level of Service		B			B			A			B	
Approach Delay (s)		14.0			12.9			7.8			16.7	
Approach LOS		B			B			A			B	
Intersection Summary												
HCM Average Control Delay			13.2				HCM Level of Service			B		
HCM Volume to Capacity ratio			0.72									
Actuated Cycle Length (s)			37.3				Sum of lost time (s)		10.0			
Intersection Capacity Utilization			62.8%				ICU Level of Service		B			
Analysis Period (min)			15									
c Critical Lane Group												

Lanes, Volumes, Timings
3: Walton St & Stevens Ave

5/1/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)	0%		0%			0%
Storage Length (ft)	0	40		35	90	
Storage Lanes	1	1		1	1	
Taper Length (ft)	25	25		25	25	
Right Turn on Red		Yes		Yes		
Link Speed (mph)	30		30			30
Link Distance (ft)	1000		1000			1000
Travel Time (s)	22.7		22.7			22.7

Intersection Summary

Area Type: Other

Timings

3: Walton St & Stevens Ave

5/1/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Volume (vph)	105	123	395	93	47	432
Turn Type		Perm		Perm	pm+pt	
Protected Phases	8		2		1	6
Permitted Phases		8		2	6	
Detector Phase	8	8	2	2	1	6
Switch Phase						
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	21.0	21.0	21.0	21.0	9.0	21.0
Total Split (s)	21.0	21.0	30.0	30.0	9.0	39.0
Total Split (%)	35.0%	35.0%	50.0%	50.0%	15.0%	65.0%
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	None	None	None	None	None	None
Act Effct Green (s)	10.6	10.6	22.7	22.7	24.1	26.9
Actuated g/C Ratio	0.26	0.26	0.55	0.55	0.58	0.65
v/c Ratio	0.33	0.33	0.55	0.13	0.11	0.46
Control Delay	19.8	5.8	14.1	6.0	5.2	7.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	19.8	5.8	14.1	6.0	5.2	7.7
LOS	B	A	B	A	A	A
Approach Delay	12.3		12.5			7.5
Approach LOS	B		B			A

Intersection Summary

Cycle Length: 60

Actuated Cycle Length: 41.5

Natural Cycle: 60

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.55

Intersection Signal Delay: 10.6

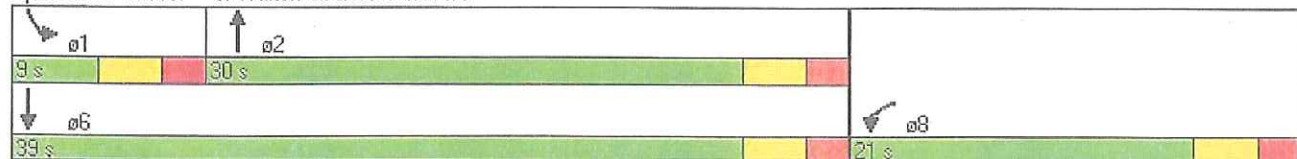
Intersection Capacity Utilization 43.2%

Analysis Period (min) 15

Intersection LOS: B

ICU Level of Service A

Splits and Phases: 3: Walton St & Stevens Ave



Queues

3: Walton St & Stevens Ave

5/1/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Group Flow (vph)	150	176	494	116	53	485
v/c Ratio	0.33	0.33	0.55	0.13	0.11	0.46
Control Delay	19.8	5.8	14.1	6.0	5.2	7.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	19.8	5.8	14.1	6.0	5.2	7.7
Queue Length 50th (ft)	38	0	111	9	5	65
Queue Length 95th (ft)	65	19	188	30	18	147
Internal Link Dist (ft)	920		920			920
Turn Bay Length (ft)		40		35	90	
Base Capacity (vph)	862	842	1053	1013	481	1268
Starvation Cap Reductn	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0
Reduced v/c Ratio	0.17	0.21	0.47	0.11	0.11	0.38
Intersection Summary						

HCM Signalized Intersection Capacity Analysis

3: Walton St & Stevens Ave

5/1/2015

						
Movement	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Volume (vph)	105	123	395	93	47	432
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Total Lost time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Frpb, ped/bikes	1.00	0.97	1.00	0.97	1.00	1.00
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	0.85	1.00	0.85	1.00	1.00
Flt Protected	0.95	1.00	1.00	1.00	0.95	1.00
Satd. Flow (prot)	1787	1557	1642	1551	1769	1626
Flt Permitted	0.95	1.00	1.00	1.00	0.31	1.00
Satd. Flow (perm)	1787	1557	1642	1551	570	1626
Peak-hour factor, PHF	0.70	0.70	0.80	0.80	0.89	0.89
Adj. Flow (vph)	150	176	494	116	53	485
RTOR Reduction (vph)	0	147	0	32	0	0
Lane Group Flow (vph)	150	29	494	84	53	485
Confl. Peds. (#/hr)	3	3		4	2	
Confl. Bikes (#/hr)		1		6		
Heavy Vehicles (%)	1%	1%	1%	1%	2%	2%
Bus Blockages (#/hr)	0	0	2	0	0	2
Parking (#/hr)			4			4
Turn Type	Perm		Perm		pm+pt	
Protected Phases	8		2		1	6
Permitted Phases		8		2	6	
Actuated Green, G (s)	7.2	7.2	19.9	19.9	26.8	26.8
Effective Green, g (s)	7.2	7.2	19.9	19.9	26.8	26.8
Actuated g/C Ratio	0.16	0.16	0.45	0.45	0.61	0.61
Clearance Time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Vehicle Extension (s)	3.0	3.0	3.0	3.0	3.0	3.0
Lane Grp Cap (vph)	292	255	743	701	399	990
v/s Ratio Prot	c0.08		c0.30		0.01	c0.30
v/s Ratio Perm		0.02		0.05	0.08	
v/c Ratio	0.51	0.11	0.66	0.12	0.13	0.49
Uniform Delay, d1	16.8	15.7	9.4	7.0	4.5	4.8
Progression Factor	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	1.5	0.2	2.3	0.1	0.2	0.4
Delay (s)	18.3	15.9	11.7	7.1	4.6	5.2
Level of Service	B	B	B	A	A	A
Approach Delay (s)	17.0		10.8			5.1
Approach LOS	B		B			A
Intersection Summary						
HCM Average Control Delay			10.1		HCM Level of Service	B
HCM Volume to Capacity ratio			0.66			
Actuated Cycle Length (s)			44.0		Sum of lost time (s)	15.0
Intersection Capacity Utilization			43.2%		ICU Level of Service	A
Analysis Period (min)			15			
c Critical Lane Group						

Existing 2015 Conditions - AM Peak Hour

Synchro 7 - Report
Page 5

Lanes, Volumes, Timings
11: Walton Street & Forest Ave

5/1/2015

												
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12	12	12	12	12	12	12
Grade (%)		0%			0%			0%			0%	
Storage Length (ft)	0		40	0		100	140		0	140		0
Storage Lanes	0		1	0		1	1		0	1		0
Taper Length (ft)	25		25	25		25	25		25	25		25
Right Turn on Red			Yes			Yes			Yes			Yes
Link Speed (mph)		30			30			30			30	
Link Distance (ft)		950			686			1198			517	
Travel Time (s)		21.6			15.6			27.2			11.8	

Intersection Summary

Area Type: Other

Timings

11: Walton Street & Forest Ave

5/1/2015

										
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	SBL	SBT
Lane Configurations										
Volume (vph)	27	76	50	43	155	88	92	550	72	753
Turn Type	Perm		Perm	Perm		Perm	pm+pt		pm+pt	
Protected Phases		4			8		5	2	1	6
Permitted Phases	4		4	8		8	2		6	
Detector Phase	4	4	4	8	8	8	5	2	1	6
Switch Phase										
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	8.0	21.0	8.0	21.0
Total Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	8.0	36.0	8.0	36.0
Total Split (%)	32.3%	32.3%	32.3%	32.3%	32.3%	32.3%	12.3%	55.4%	12.3%	55.4%
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0	3.5	3.0	3.5	3.0
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0	0.5	2.0	0.5	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0	4.0	5.0	4.0	5.0
Lead/Lag							Lead	Lag	Lead	Lag
Lead-Lag Optimize?										
Recall Mode	None	None	None	None	None	None	None	None	None	None
Act Effct Green (s)		13.7	13.7		13.7	13.7	33.9	29.9	33.9	29.9
Actuated g/C Ratio		0.23	0.23		0.23	0.23	0.57	0.50	0.57	0.50
v/c Ratio		0.34	0.15		0.71	0.27	0.42	0.68	0.21	0.92
Control Delay		23.6	7.2		33.7	6.4	10.9	17.4	6.5	33.7
Queue Delay		0.0	0.0		0.0	0.0	0.0	0.0	0.0	0.0
Total Delay		23.6	7.2		33.7	6.4	10.9	17.4	6.5	33.7
LOS		C	A		C	A	B	B	A	C
Approach Delay		18.2			25.3			16.5		31.4
Approach LOS		B			C			B		C

Intersection Summary

Cycle Length: 65

Actuated Cycle Length: 59.9

Natural Cycle: 70

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.92

Intersection Signal Delay: 24.4

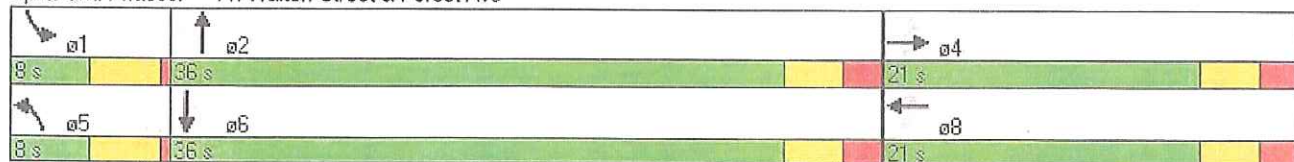
Intersection Capacity Utilization 78.9%

Analysis Period (min) 15

Intersection LOS: C

ICU Level of Service D

Splits and Phases: 11: Walton Street & Forest Ave



Queues

11: Walton Street & Forest Ave

5/1/2015

	→	↘	←	↙	↖	↑	↗	↓
Lane Group	EBT	EBR	WBT	WBR	NBL	NBT	SBL	SBT
Lane Group Flow (vph)	121	59	271	121	102	624	79	856
v/c Ratio	0.34	0.15	0.71	0.27	0.42	0.68	0.21	0.92
Control Delay	23.6	7.2	33.7	6.4	10.9	17.4	6.5	33.7
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	23.6	7.2	33.7	6.4	10.9	17.4	6.5	33.7
Queue Length 50th (ft)	39	0	97	0	14	181	11	302
Queue Length 95th (ft)	76	22	130	21	30	301	25	#556
Internal Link Dist (ft)	870		606			1118		437
Turn Bay Length (ft)		40		100	140		140	
Base Capacity (vph)	421	469	458	510	241	968	372	987
Starvation Cap Reductn	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.29	0.13	0.59	0.24	0.42	0.64	0.21	0.87

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

HCM Signalized Intersection Capacity Analysis 11: Walton Street & Forest Ave

5/1/2015

												
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Volume (vph)	27	76	50	43	155	88	92	550	12	72	753	26
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		5.0	5.0		5.0	5.0	4.0	5.0		4.0	5.0	
Lane Util. Factor		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Frpb, ped/bikes		1.00	0.97		1.00	0.97	1.00	1.00		1.00	1.00	
Flpb, ped/bikes		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Frt		1.00	0.85		1.00	0.85	1.00	1.00		1.00	0.99	
Flt Protected		0.99	1.00		0.99	1.00	0.95	1.00		0.95	1.00	
Satd. Flow (prot)		1855	1556		1841	1541	1736	1820		1787	1855	
Flt Permitted		0.82	1.00		0.90	1.00	0.13	1.00		0.27	1.00	
Satd. Flow (perm)		1533	1556		1670	1541	244	1820		501	1855	
Peak-hour factor, PHF	0.85	0.85	0.85	0.73	0.73	0.73	0.90	0.90	0.90	0.91	0.91	0.91
Adj. Flow (vph)	32	89	59	59	212	121	102	611	13	79	827	29
RTOR Reduction (vph)	0	0	46	0	0	94	0	1	0	0	2	0
Lane Group Flow (vph)	0	121	13	0	271	27	102	623	0	79	854	0
Confl. Peds. (#/hr)	2		2	2		2				2		2
Confl. Bikes (#/hr)			2			2			2			2
Heavy Vehicles (%)	1%	1%	1%	2%	2%	2%	4%	4%	4%	1%	1%	1%
Bus Blockages (#/hr)	0	0	0	0	0	0	0	0	0	0	2	0
Turn Type	Perm		Perm	Perm		Perm	pm+pt			pm+pt		
Protected Phases		4			8		5	2		1	6	
Permitted Phases	4		4	8		8	2			6		
Actuated Green, G (s)		13.7	13.7		13.7	13.7	32.9	29.9		32.9	29.9	
Effective Green, g (s)		13.7	13.7		13.7	13.7	32.9	29.9		32.9	29.9	
Actuated g/C Ratio		0.23	0.23		0.23	0.23	0.54	0.49		0.54	0.49	
Clearance Time (s)		5.0	5.0		5.0	5.0	4.0	5.0		4.0	5.0	
Vehicle Extension (s)		3.0	3.0		3.0	3.0	3.0	3.0		3.0	3.0	
Lane Grp Cap (vph)		347	352		378	348	206	898		336	915	
v/s Ratio Prot							c0.02	0.34		0.01	c0.46	
v/s Ratio Perm		0.08	0.01		c0.16	0.02	0.24			0.12		
v/c Ratio		0.35	0.04		0.72	0.08	0.50	0.69		0.24	0.93	
Uniform Delay, d1		19.7	18.3		21.7	18.5	11.5	11.8		7.8	14.4	
Progression Factor		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Incremental Delay, d2		0.6	0.0		6.4	0.1	1.9	2.3		0.4	16.0	
Delay (s)		20.3	18.3		28.0	18.6	13.4	14.2		8.2	30.4	
Level of Service		C	B		C	B	B	B		A	C	
Approach Delay (s)		19.7			25.1			14.1			28.5	
Approach LOS		B			C			B			C	
Intersection Summary												
HCM Average Control Delay			22.5									
HCM Volume to Capacity ratio			0.84									
Actuated Cycle Length (s)			60.6									
Intersection Capacity Utilization			78.9%									
Analysis Period (min)			15									
c Critical Lane Group												

Lanes, Volumes, Timings
3: Walton St & Stevens Ave

5/4/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12
Grade (%)	0%		0%			0%
Storage Length (ft)	0	40		35	90	
Storage Lanes	1	1		1	1	
Taper Length (ft)	25	25		25	25	
Right Turn on Red		Yes		Yes		
Link Speed (mph)	30		30			30
Link Distance (ft)	535		540			690
Travel Time (s)	12.2		12.3			15.7

Intersection Summary

Area Type: Other

Timings

3: Walton St & Stevens Ave

5/4/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Volume (vph)	112	64	442	97	104	489
Turn Type		Perm		Perm	pm+pt	
Protected Phases	8		2		1	6
Permitted Phases		8		2	6	
Detector Phase	8	8	2	2	1	6
Switch Phase						
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	21.0	21.0	21.0	21.0	9.0	21.0
Total Split (s)	21.0	21.0	30.0	30.0	9.0	39.0
Total Split (%)	35.0%	35.0%	50.0%	50.0%	15.0%	65.0%
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Lead/Lag			Lag	Lag	Lead	
Lead-Lag Optimize?			Yes	Yes	Yes	
Recall Mode	None	None	None	None	None	None
Act Effct Green (s)	10.5	10.5	23.1	23.1	25.9	29.3
Actuated g/C Ratio	0.25	0.25	0.54	0.54	0.61	0.68
v/c Ratio	0.29	0.17	0.56	0.13	0.24	0.49
Control Delay	20.3	6.8	14.3	5.8	5.6	7.5
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	20.3	6.8	14.3	5.8	5.6	7.5
LOS	C	A	B	A	A	A
Approach Delay	15.4		12.8			7.1
Approach LOS	B		B			A

Intersection Summary

Cycle Length: 60

Actuated Cycle Length: 42.8

Natural Cycle: 60

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.56

Intersection Signal Delay: 10.6

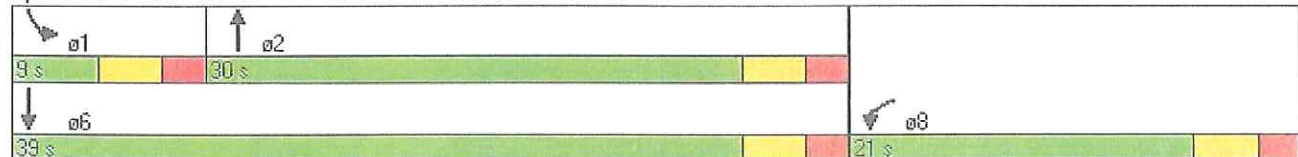
Intersection Capacity Utilization 49.2%

Analysis Period (min) 15

Intersection LOS: B

ICU Level of Service A

Splits and Phases: 3: Walton St & Stevens Ave



Queues

3: Walton St & Stevens Ave

5/4/2015

						
Lane Group	WBL	WBR	NBT	NBR	SBL	SBT
Lane Group Flow (vph)	127	73	497	109	118	556
v/c Ratio	0.29	0.17	0.56	0.13	0.24	0.49
Control Delay	20.3	6.8	14.3	5.8	5.6	7.5
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	20.3	6.8	14.3	5.8	5.6	7.5
Queue Length 50th (ft)	31	0	109	9	11	75
Queue Length 95th (ft)	74	25	217	33	30	161
Internal Link Dist (ft)	455		460			610
Turn Bay Length (ft)		40		35	90	
Base Capacity (vph)	817	740	994	942	502	1245
Starvation Cap Reductn	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0
Reduced v/c Ratio	0.16	0.10	0.50	0.12	0.24	0.45
Intersection Summary						

HCM Signalized Intersection Capacity Analysis

3: Walton St & Stevens Ave

5/4/2015

						
Movement	WBL	WBR	NBT	NBR	SBL	SBT
Lane Configurations						
Volume (vph)	112	64	442	97	104	489
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900
Total Lost time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Lane Util. Factor	1.00	1.00	1.00	1.00	1.00	1.00
Frpb, ped/bikes	1.00	0.96	1.00	0.96	1.00	1.00
Flpb, ped/bikes	1.00	1.00	1.00	1.00	1.00	1.00
Frt	1.00	0.85	1.00	0.85	1.00	1.00
Flt Protected	0.95	1.00	1.00	1.00	0.95	1.00
Satd. Flow (prot)	1787	1528	1652	1536	1803	1668
Flt Permitted	0.95	1.00	1.00	1.00	0.30	1.00
Satd. Flow (perm)	1787	1528	1652	1536	570	1668
Peak-hour factor, PHF	0.88	0.88	0.89	0.89	0.88	0.88
Adj. Flow (vph)	127	73	497	109	118	556
RTOR Reduction (vph)	0	62	0	30	0	0
Lane Group Flow (vph)	127	11	497	79	118	556
Confl. Peds. (#/hr)	7	7		7	7	
Confl. Bikes (#/hr)		6		12		
Heavy Vehicles (%)	1%	1%	1%	1%	0%	0%
Bus Blockages (#/hr)	0	0	2	0	0	2
Parking (#/hr)			3			3
Turn Type	Perm		Perm		pm+pt	
Protected Phases	8		2		1	6
Permitted Phases		8		2	6	
Actuated Green, G (s)	6.6	6.6	19.7	19.7	27.5	27.5
Effective Green, g (s)	6.6	6.6	19.7	19.7	27.5	27.5
Actuated g/C Ratio	0.15	0.15	0.45	0.45	0.62	0.62
Clearance Time (s)	5.0	5.0	5.0	5.0	5.0	5.0
Vehicle Extension (s)	3.0	3.0	3.0	3.0	3.0	3.0
Lane Grp Cap (vph)	267	229	738	686	434	1040
v/s Ratio Prot	c0.07		c0.30		0.02	c0.33
v/s Ratio Perm		0.01		0.05	0.15	
v/c Ratio	0.48	0.05	0.67	0.12	0.27	0.53
Uniform Delay, d1	17.2	16.1	9.7	7.1	4.5	4.7
Progression Factor	1.00	1.00	1.00	1.00	1.00	1.00
Incremental Delay, d2	1.3	0.1	2.4	0.1	0.3	0.5
Delay (s)	18.5	16.1	12.1	7.2	4.8	5.2
Level of Service	B	B	B	A	A	A
Approach Delay (s)	17.6		11.2			5.1
Approach LOS	B		B			A
Intersection Summary						
HCM Average Control Delay	9.3			HCM Level of Service		A
HCM Volume to Capacity ratio	0.66					
Actuated Cycle Length (s)	44.1			Sum of lost time (s)		15.0
Intersection Capacity Utilization	49.2%			ICU Level of Service		A
Analysis Period (min)	15					
c Critical Lane Group						

Lanes, Volumes, Timings
9: Pleasant Ave & Stevens Avenue

5/4/2015

												
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12	12	12	12	12	12	12
Grade (%)		0%			0%			0%			0%	
Storage Length (ft)	0		0	0		0	0		0	0		0
Storage Lanes	0		0	0		0	0		0	0		0
Taper Length (ft)	25		25	25		25	25		25	25		25
Right Turn on Red			Yes			Yes			Yes			Yes
Link Speed (mph)		30			30			30			30	
Link Distance (ft)		1219			1121			280			1491	
Travel Time (s)		27.7			25.5			6.4			33.9	

Intersection Summary

Area Type: Other

Timings

9: Pleasant Ave & Stevens Avenue

5/4/2015

								
Lane Group	EBL	EBT	WBL	WBT	NBL	NBT	SBL	SBT
Lane Configurations								
Volume (vph)	49	30	11	37	20	525	32	437
Turn Type	Perm		Perm		Perm		Perm	
Protected Phases		4		8		2		6
Permitted Phases	4		8		2		6	
Detector Phase	4	4	8	8	2	2	6	6
Switch Phase								
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0
Minimum Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	21.0	21.0
Total Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	21.0	21.0
Total Split (%)	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%	50.0%
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Lead/Lag								
Lead-Lag Optimize?								
Recall Mode	None	None	None	None	Max	Max	Max	Max
Act Effect Green (s)		7.8		7.6		23.1		23.1
Actuated g/C Ratio		0.23		0.22		0.67		0.67
v/c Ratio		0.35		0.33		0.50		0.56
Control Delay		11.7		8.1		10.0		12.3
Queue Delay		0.0		0.0		0.0		0.0
Total Delay		11.7		8.1		10.0		12.3
LOS		B		A		B		B
Approach Delay		11.7		8.1		10.0		12.3
Approach LOS		B		A		B		B

Intersection Summary

Cycle Length: 42

Actuated Cycle Length: 34.3

Natural Cycle: 55

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.56

Intersection Signal Delay: 10.9

Intersection Capacity Utilization 58.4%

Analysis Period (min) 15

Intersection LOS: B

ICU Level of Service B

Splits and Phases: 9: Pleasant Ave & Stevens Avenue

 2	 4
21 s	21 s
 6	 8
21 s	21 s

Queues

9: Pleasant Ave & Stevens Avenue

5/4/2015

	→	←	↑	↓
Lane Group	EBT	WBT	NBT	SBT
Lane Group Flow (vph)	127	136	615	581
v/c Ratio	0.35	0.33	0.50	0.56
Control Delay	11.7	8.1	10.0	12.3
Queue Delay	0.0	0.0	0.0	0.0
Total Delay	11.7	8.1	10.0	12.3
Queue Length 50th (ft)	15	9	74	74
Queue Length 95th (ft)	34	27	#235	#217
Internal Link Dist (ft)	1139	1041	200	1411
Turn Bay Length (ft)				
Base Capacity (vph)	714	787	1229	1046
Starvation Cap Reductn	0	0	0	0
Spillback Cap Reductn	0	0	0	0
Storage Cap Reductn	0	0	0	0
Reduced v/c Ratio	0.18	0.17	0.50	0.56

Intersection Summary

- # 95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

HCM Signalized Intersection Capacity Analysis

9: Pleasant Ave & Stevens Avenue

5/4/2015

												
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Volume (vph)	49	30	20	11	37	57	20	525	15	32	437	19
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		5.0			5.0			5.0			5.0	
Lane Util. Factor		1.00			1.00			1.00			1.00	
Frpb, ped/bikes		0.98			0.94			1.00			1.00	
Flpb, ped/bikes		1.00			1.00			1.00			1.00	
Frt		0.97			0.93			1.00			0.99	
Flt Protected		0.98			0.99			1.00			1.00	
Satd. Flow (prot)		1748			1637			1870			1638	
Flt Permitted		0.83			0.95			0.97			0.94	
Satd. Flow (perm)		1487			1556			1824			1549	
Peak-hour factor, PHF	0.78	0.78	0.78	0.77	0.77	0.77	0.91	0.91	0.91	0.84	0.84	0.84
Adj. Flow (vph)	63	38	26	14	48	74	22	577	16	38	520	23
RTOR Reduction (vph)	0	22	0	0	63	0	0	2	0	0	3	0
Lane Group Flow (vph)	0	105	0	0	73	0	0	613	0	0	578	0
Confl. Peds. (#/hr)	10		10	20		20	4		4	10		10
Confl. Bikes (#/hr)			19			30			5			17
Heavy Vehicles (%)	1%	1%	1%	0%	0%	0%	1%	1%	1%	1%	1%	1%
Parking (#/hr)											4	
Turn Type	Perm			Perm			Perm			Perm		
Protected Phases		4			8			2			6	
Permitted Phases	4			8			2			6		
Actuated Green, G (s)		5.3			5.3			21.0			21.0	
Effective Green, g (s)		5.3			5.3			21.0			21.0	
Actuated g/C Ratio		0.15			0.15			0.58			0.58	
Clearance Time (s)		5.0			5.0			5.0			5.0	
Vehicle Extension (s)		3.0			3.0			3.0			3.0	
Lane Grp Cap (vph)		217			227			1055			896	
v/s Ratio Prot												
v/s Ratio Perm		c0.07			0.05			0.34			c0.37	
v/c Ratio		0.48			0.32			0.58			0.65	
Uniform Delay, d1		14.2			13.9			4.9			5.1	
Progression Factor		1.00			1.00			1.00			1.00	
Incremental Delay, d2		1.7			0.8			2.3			3.6	
Delay (s)		15.9			14.7			7.2			8.7	
Level of Service		B			B			A			A	
Approach Delay (s)		15.9			14.7			7.2			8.7	
Approach LOS		B			B			A			A	
Intersection Summary												
HCM Average Control Delay			9.3			HCM Level of Service			A			
HCM Volume to Capacity ratio			0.61									
Actuated Cycle Length (s)			36.3			Sum of lost time (s)			10.0			
Intersection Capacity Utilization			58.4%			ICU Level of Service			B			
Analysis Period (min)			15									
c Critical Lane Group												

Lanes, Volumes, Timings
11: Walton Street & Forest Ave

5/4/2015

												
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Lane Width (ft)	12	12	12	12	12	12	12	12	12	12	12	12
Grade (%)		0%			0%			0%			0%	
Storage Length (ft)	0		40	0		100	140		0	140		0
Storage Lanes	0		1	0		1	1		0	1		0
Taper Length (ft)	25		25	25		25	25		25	25		25
Right Turn on Red			Yes			Yes			Yes			Yes
Link Speed (mph)		30			30			30			30	
Link Distance (ft)		950			686			1198			517	
Travel Time (s)		21.6			15.6			27.2			11.8	

Intersection Summary

Area Type: Other

Timings

11: Walton Street & Forest Ave

5/4/2015

											
Lane Group	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	SBL	SBT	
Lane Configurations											
Volume (vph)	22	88	61	45	93	106	38	734	75	624	
Turn Type	Perm		Perm	Perm		Perm	pm+pt		pm+pt		
Protected Phases		4			8		5	2	1	6	
Permitted Phases	4		4	8		8	2		6		
Detector Phase	4	4	4	8	8	8	5	2	1	6	
Switch Phase											
Minimum Initial (s)	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	4.0	
Minimum Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	8.0	21.0	8.0	21.0	
Total Split (s)	21.0	21.0	21.0	21.0	21.0	21.0	8.0	36.0	8.0	36.0	
Total Split (%)	32.3%	32.3%	32.3%	32.3%	32.3%	32.3%	12.3%	55.4%	12.3%	55.4%	
Yellow Time (s)	3.0	3.0	3.0	3.0	3.0	3.0	3.5	3.0	3.5	3.0	
All-Red Time (s)	2.0	2.0	2.0	2.0	2.0	2.0	0.5	2.0	0.5	2.0	
Lost Time Adjust (s)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	
Total Lost Time (s)	5.0	5.0	5.0	5.0	5.0	5.0	4.0	5.0	4.0	5.0	
Lead/Lag							Lead	Lag	Lead	Lag	
Lead-Lag Optimize?											
Recall Mode	None	None	None	None	None	None	None	None	None	None	
Act Effct Green (s)		11.4	11.4		11.4	11.4	31.3	28.2	32.1	29.6	
Actuated g/C Ratio		0.21	0.21		0.21	0.21	0.58	0.52	0.59	0.55	
v/c Ratio		0.38	0.19		0.52	0.31	0.11	0.83	0.29	0.70	
Control Delay		23.9	7.2		27.3	6.8	5.2	22.8	7.5	15.8	
Queue Delay		0.0	0.0		0.0	0.0	0.0	0.0	0.0	0.0	
Total Delay		23.9	7.2		27.3	6.8	5.2	22.8	7.5	15.8	
LOS		C	A		C	A	A	C	A	B	
Approach Delay		17.9			18.4			22.0		15.0	
Approach LOS		B			B			C		B	

Intersection Summary

Cycle Length: 65

Actuated Cycle Length: 54.3

Natural Cycle: 65

Control Type: Actuated-Uncoordinated

Maximum v/c Ratio: 0.83

Intersection Signal Delay: 18.5

Intersection Capacity Utilization 70.6%

Analysis Period (min) 15

Intersection LOS: B

ICU Level of Service C

Splits and Phases: 11: Walton Street & Forest Ave

 01	 02	 04
8 s	36 s	21 s
 05	 06	 08
8 s	36 s	21 s

Queues

11: Walton Street & Forest Ave

5/4/2015

	→	↘	←	↙	↖	↑	↗	↓
Lane Group	EBT	EBR	WBT	WBR	NBL	NBT	SBL	SBT
Lane Group Flow (vph)	136	75	172	132	40	809	79	691
v/c Ratio	0.38	0.19	0.52	0.31	0.11	0.83	0.29	0.70
Control Delay	23.9	7.2	27.3	6.8	5.2	22.8	7.5	15.8
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay	23.9	7.2	27.3	6.8	5.2	22.8	7.5	15.8
Queue Length 50th (ft)	44	0	58	0	4	232	8	120
Queue Length 95th (ft)	78	23	96	27	15	#507	25	#405
Internal Link Dist (ft)	870		606			1118		437
Turn Bay Length (ft)		40		100	140		140	
Base Capacity (vph)	536	538	493	574	374	1131	269	1146
Starvation Cap Reductn	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.25	0.14	0.35	0.23	0.11	0.72	0.29	0.60

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.

Queue shown is maximum after two cycles.

HCM Signalized Intersection Capacity Analysis

11: Walton Street & Forest Ave

5/4/2015

												
Movement	EBL	EBT	EBR	WBL	WBT	WBR	NBL	NBT	NBR	SBL	SBT	SBR
Lane Configurations												
Volume (vph)	22	88	61	45	93	106	38	734	34	75	624	32
Ideal Flow (vphpl)	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900	1900
Total Lost time (s)		5.0	5.0		5.0	5.0	4.0	5.0		4.0	5.0	
Lane Util. Factor		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Frpb, ped/bikes		1.00	0.96		1.00	0.97	1.00	1.00		1.00	1.00	
Flpb, ped/bikes		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Frt		1.00	0.85		1.00	0.85	1.00	0.99		1.00	0.99	
Flt Protected		0.99	1.00		0.98	1.00	0.95	1.00		0.95	1.00	
Satd. Flow (prot)		1879	1557		1848	1550	1787	1869		1752	1814	
Flt Permitted		0.90	1.00		0.84	1.00	0.25	1.00		0.14	1.00	
Satd. Flow (perm)		1717	1557		1579	1550	470	1869		259	1814	
Peak-hour factor, PHF	0.81	0.81	0.81	0.80	0.80	0.80	0.95	0.95	0.95	0.95	0.95	0.95
Adj. Flow (vph)	27	109	75	56	116	132	40	773	36	79	657	34
RTOR Reduction (vph)	0	0	60	0	0	106	0	2	0	0	2	0
Lane Group Flow (vph)	0	136	15	0	172	26	40	807	0	79	689	0
Confl. Peds. (#/hr)	4		4	4		4				4		4
Confl. Bikes (#/hr)			5			2						4
Heavy Vehicles (%)	0%	0%	0%	1%	1%	1%	1%	1%	1%	3%	3%	3%
Bus Blockages (#/hr)	0	0	0	0	0	0	0	0	0	0	2	0
Turn Type	Perm		Perm	Perm		Perm	pm+pt			pm+pt		
Protected Phases		4			8		5	2		1	6	
Permitted Phases	4		4	8		8	2			6		
Actuated Green, G (s)		11.3	11.3		11.3	11.3	30.3	28.9		31.7	29.6	
Effective Green, g (s)		11.3	11.3		11.3	11.3	30.3	28.9		31.7	29.6	
Actuated g/C Ratio		0.20	0.20		0.20	0.20	0.54	0.51		0.56	0.53	
Clearance Time (s)		5.0	5.0		5.0	5.0	4.0	5.0		4.0	5.0	
Vehicle Extension (s)		3.0	3.0		3.0	3.0	3.0	3.0		3.0	3.0	
Lane Grp Cap (vph)		345	313		317	311	286	959		202	954	
v/s Ratio Prot							0.00	c0.43		c0.01	0.38	
v/s Ratio Perm		0.08	0.01		c0.11	0.02	0.07			0.21		
v/c Ratio		0.39	0.05		0.54	0.09	0.14	0.84		0.39	0.72	
Uniform Delay, d1		19.5	18.2		20.2	18.3	7.3	11.7		8.9	10.2	
Progression Factor		1.00	1.00		1.00	1.00	1.00	1.00		1.00	1.00	
Incremental Delay, d2		0.7	0.1		1.9	0.1	0.2	6.8		1.3	2.7	
Delay (s)		20.3	18.2		22.1	18.4	7.5	18.5		10.2	12.9	
Level of Service		C	B		C	B	A	B		B	B	
Approach Delay (s)		19.5			20.5			18.0			12.6	
Approach LOS		B			C			B			B	
Intersection Summary												
HCM Average Control Delay			16.6				HCM Level of Service			B		
HCM Volume to Capacity ratio			0.74									
Actuated Cycle Length (s)			56.3							14.0		
Intersection Capacity Utilization			70.6%							C		
Analysis Period (min)			15									
c Critical Lane Group												

SUMMARY MEMORANDUM

TO: Mr. Matthew D. Teare
Director of Development
Sea Coast Management Company
30 Governors Way
Topsham, Maine 04086

DATE: May 6, 2015

RE: Trip Generation Analysis for Proposed Zoning Alternatives for Baxter Place in Portland, Maine

The purpose of this memorandum is to summarize trip generation analysis requested by the City Traffic Engineer for the proposed re-zoning of a parcel off Stevens Avenue in Portland, Maine. The zoning is being requested to accommodate the proposed Baxter Place senior housing development. The requested rezoning of lots 3 and 4 would change the zone from the current R5 to the requested R5A. It is understood that the current R5 zone would allow for up to 131 dwelling units to be constructed on lots 3 & 4. The proposed R5A zone would allow for up to 368 dwelling units on these lots. It was assumed for this trip generation analysis that the dwelling units would consist of attached apartment units since they would generate more trips than condominium units.

Maximum Build-Out

Trip generation for the maximum potential build out of the rezoned lots 3 & 4 was determined using the most recent Institute of Transportation Engineers (ITE) "Trip Generation, 9th edition" report. As previously discussed, Land Use Code (LUC) 220 – Apartment was used to represent "worst case". The results for existing R5 zone with 131 dwelling (D.U.s) and the proposed R5A zone with a maximum of 368 apartment units are summarized below:

ITE Trip Generation for Potential Build-Out (one-way trip ends)

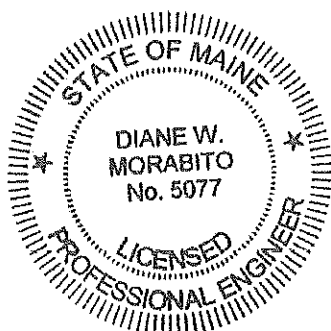
<u>Time Period</u>	<u>Current R5 131 Apts.</u>	<u>Proposed R5A 368 Apts.</u>	<u>Change In Trips</u>
Weekday	872	2,448	+ 1,576
AM Peak Hour – Adjacent Street	67	188	+ 121
Entering	13	38	+ 25
Exiting	54	150	+ 96
PM Peak Hour – Adjacent Street	81	228	+ 147
Entering	53	148	+ 95
Exiting	28	80	+ 52

Proposed Senior Housing Build-Out

Similarly, trip generation was also performed for the currently proposed senior housing development, also using the ITE "Trip Generation, 9th edition" report for comparison purposes. It was determined that under the RSA zone the maximum number of units that could be developed was 335. It is expected that the development will contain independent living apartment units as well as some assisted living. The expected split for the maximum 335 units would be 24 assisted living units and 311 independent living units. Land use codes 252 – Senior Adult Housing – Attached and 254 - Assisted Living were used on the basis of dwelling units for the senior housing option. The results are summarized below:

<u>Time Period</u>	Projected ITE Trip Generation (one-way trip-ends)		
	Proposed Senior Housing Development		
	<u>311 Senior Living Attached Units</u>	<u>24 Assisted Living Units</u>	<u>Total Trips</u>
Weekday	1,070	66	1,136
AM Peak Hour – Adjacent Street	59	4	63
Entering	21	3	24
Exiting	38	1	39
PM Peak Hour – Adjacent Street	84	7	91
Entering	51	3	54
Exiting	33	4	37

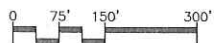
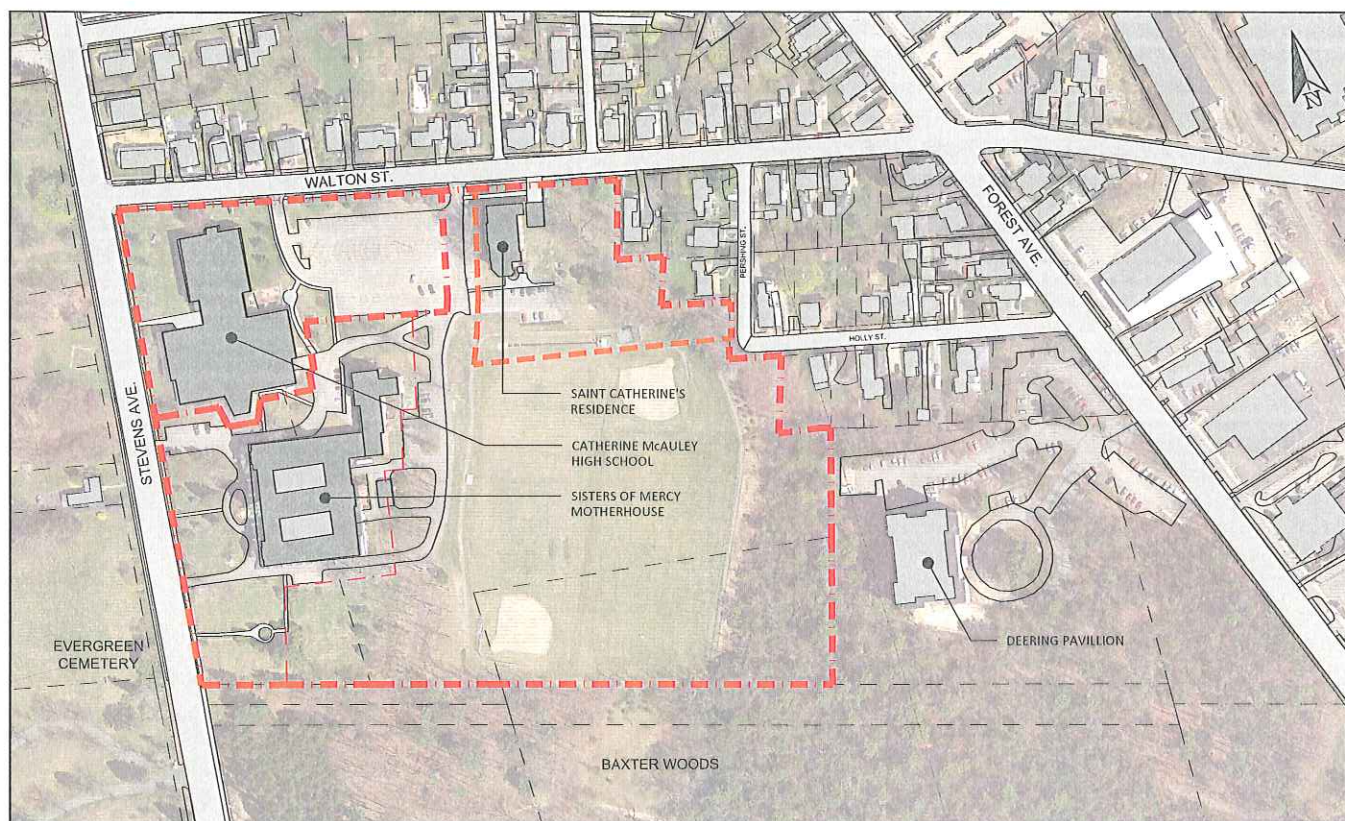
Please do not hesitate to contact me if you or the City of Portland have any questions regarding this trip generation analysis for the proposed rezoning to accommodate the planned senior housing development.



Sincerely,

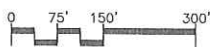
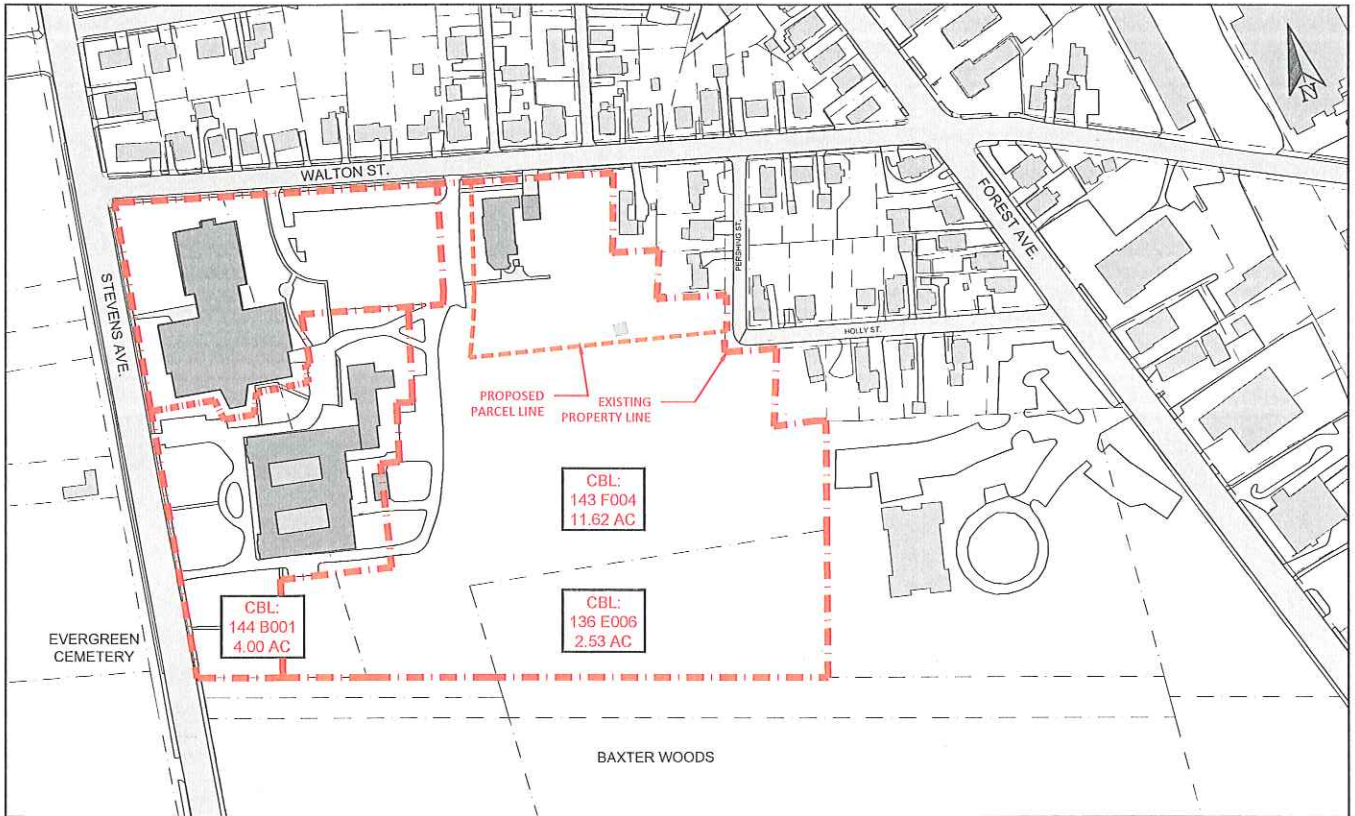
Diane W. Morabito, P.E. PTOE
President

cc: Rick Licht
Tom Errico, TY Lin
Jean Fraser, Portland



McAuley Place
CONTEXT MAP

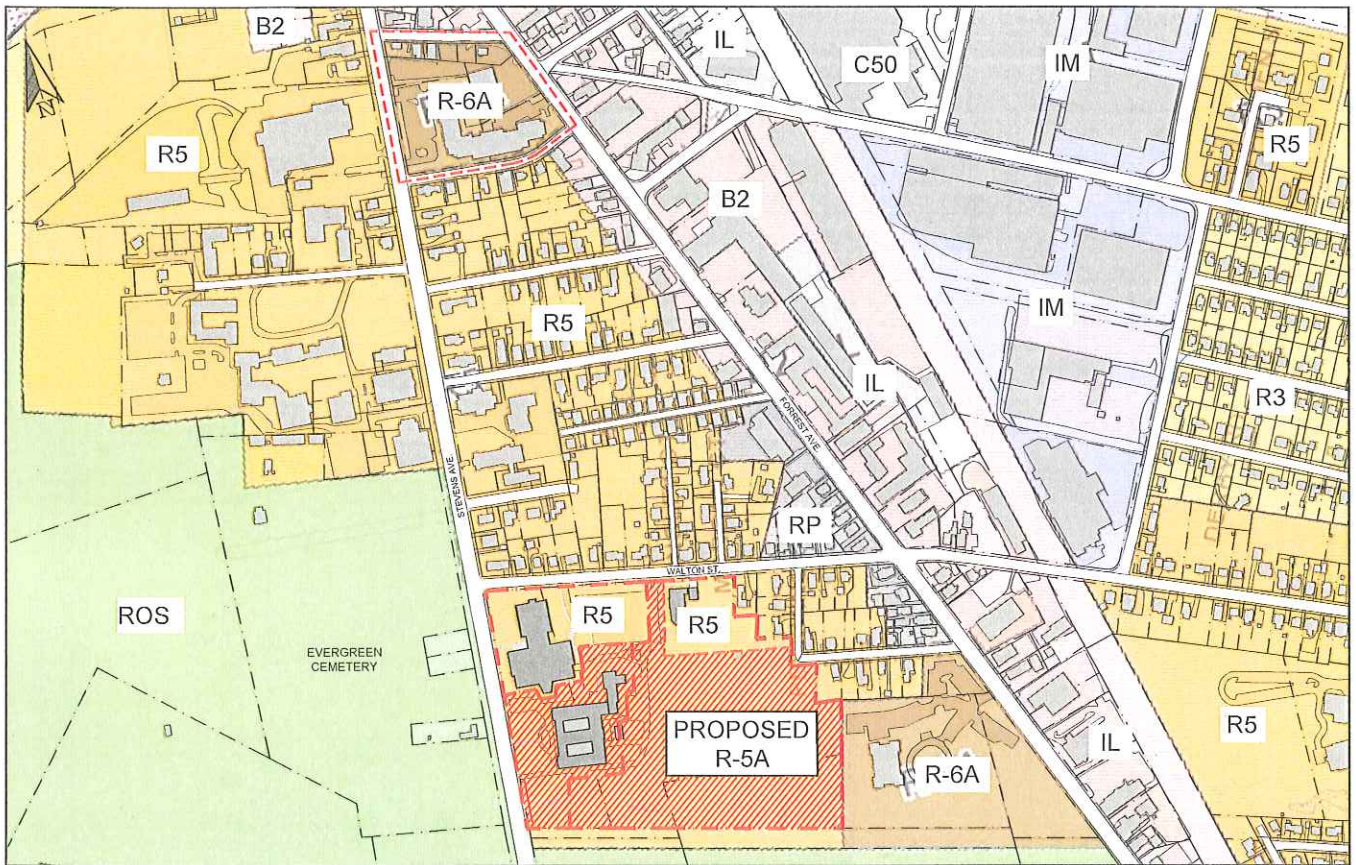
EXHIBIT
2



McAuley Place

PROPOSED PARCEL MAP

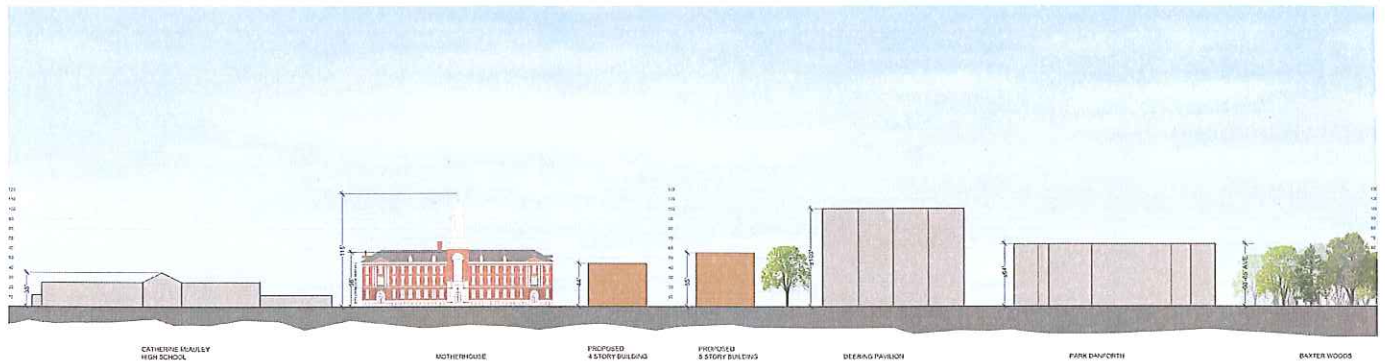
EXHIBIT
3



605 STEVENS AVE
PROPOSED ZONE MAP CHANGE

EXHIBIT
1
5.1.2015 SUBMITTAL





605 STEVENS AVE
BUILDING HEIGHT STUDY

EXHIBIT
2
5.1.2015 SUBMITTAL



View Looking North East

605 STEVENS AVE
MASSING MODEL

EXHIBIT
3a
5.1.2015 SUBMITTAL



View Looking East
from Evergreen Cemetery

605 STEVENS AVE
MASSING MODEL

EXHIBIT
3b
5.1.2015 SUBMITTAL



View Looking South

605 STEVENS AVE
MASSING MODEL

EXHIBIT
3 c
5.1.2015 SUBMITTAL



View Looking South East

605 STEVENS AVE
MASSING MODEL

EXHIBIT
3d
5.1.2015 SUBMITTAL