

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

MARCH 4, 2019 CITY COUNCIL AGENDA

The Portland City Council will hold a Regular City Council meeting at 5:30 p.m. in City Council Chambers. The Honorable Ethan K. Strimling, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ANNOUNCEMENTS:

RECOGNITIONS:

Arts in the Chamber, Dinah Minot, Artistic Director, Hear Here Recap

PRESENTATIONS:

ANNUAL MEETING:

SPECIAL MEETING:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

PROCLAMATIONS:

APPOINTMENTS:

Order 163-18/19 Appointing Long Creek Watershed Management District Directors Curtis Bohlen and Douglas Roncarati - Sponsored by Jon P. Jennings, City Manager

The Long Creek Watershed Management District (LCWMD) was created by Inter-local agreement among the municipalities of South Portland, Portland, Westbrook and Scarborough for the purpose of implementing the Long Creek Watershed Restoration Plan. The agreement was executed in August 2009. There are up to 16 Governing Board members of the LCWMD. The By-laws call for two (2) positions on the Board of Directors to be representatives from the City of Portland.

The City of Portland's two Board of Directors positions have been consistently held by a representative from the City and a representative from a local nonprofit agency. Doug Roncarati, Stormwater Coordinator at the Department of Public Works, serves as the municipal representative and Curtis Bohlen, Director of the Casco Bay Estuary Partnership, serves as the nonprofit representative. Both are seeking reappointment to the LCWMD Board of Directors. If approved, Douglas Roncarati's term would expire on February 15, 2021 and Curtis Bohlen's term would expire on October 21, 2021.

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

Order 164-18/19 Declaring July 27, 2019 the 17th Annual Greater Portland Festival of Nations - Sponsored by Jon P. Jennings, City Manager

This order declares Saturday, July 27, 2019 the 17th Annual Greater Portland Festival of Nations. This festival at Deering Oaks Park showcases Maine's ethnic diversity with music, crafts, and cuisine.

Order 165-18/19 Declaring August 3, 2019 the Picnic Craft Fair Festival - Sponsored by Jon P. Jennings, City Manager

This order declares Saturday, August 3, 2019 as the Picnic Craft Fair Festival, (with a rain date of Sunday, August 4, 2019). Lincoln Park will be filled with 100 plus crafters selling their wares to attendees.

Order 166-18/19 Declaring August 25, 2019 the Pet Rock in the Park 2019 Festival - Sponsored by Jon P. Jennings, City Manager

This order declares Sunday, August 25, 2019 the Pet Rock in the Park 2019 Festival. Deering Oaks Park will be filled with music, booths from local animal shelters and pet stores, and a variety of food from restaurants and food trucks.

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

LICENSES:

Order 167-18/19 Granting Municipal Officers' Approval of Black Tie Inc. dba Black Tie Company @PMA Application for a Class I FSE at 7 Congress Square - Sponsored by Jon P. Jennings, City Manager

Black Tie Inc. dba Black Tie Company @PMA. Application for a Class I FSE at 7 Congress Square.

Application was filed on 2/8/2019. New City and State applications. Change of ownership of an existing business.

Five affirmative votes are required for passage after public comment.

Order 168-18/19 Granting Municipal Officers' Approval of General Gardens LLC dba Flood's Application for a Class I FSE at 747 Congress Street - Sponsored by Jon P. Jennings, City Manager

General Gardens LLC dba Flood's. Application for a Class I FSE at 747 Congress Street.

Application was filed on 2/5/2019. New City and State applications. Location was previously Bolster, Snow & Co.

Five affirmative votes are required for passage after public comment.

Order 169-18/19 Granting Municipal Officers' Approval of The Sustainability Lab dba Fork Food Lab Application for a Class III & IV with Outdoor Dining on Private Property at 72 Parris Street - Sponsored by Jon P. Jennings, City Manager

The Sustainability Lab dba Fork Food Lab. Application for a Class III & IV with Outdoor Dining on Private Property at 72 Parris Street.

Application was filed on 2/1/2019. Applicant currently holds a Class III & IV license.

Five affirmative votes are required for passage after public comment.

Order 170-18/19 Granting Municipal Officers' Approval of Sun Tiki Studios LLC dba Sun Tiki Studios LLC Application for an Auditorium with Entertainment with Dance and After Hours Entertainment at 375 Forest Avenue - Sponsored by Jon P. Jennings, City Manager

Sun Tiki Studios LLC dba Sun Tiki Studios LLC. Application for an Auditorium with Entertainment with Dance and After Hours Entertainment at 375 Forest Avenue.

Application was filed on 2/4/2019. New City application. Applicant currently has a pending Auditorium with Entertainment with Dance.

Five affirmative votes are required for passage after public comment.

Order 171-18/19 Granting Municipal Officers' Approval of Marshview LLC dba Brewery Extrava Application for a Brewery with Entertainment without Dance and Outdoor Dining on Private Property at 66 Cove Street - Sponsored by Jon P. Jennings, City Manager

Marshview LLC dba Brewery Extrava. Application for a Brewery with Entertainment without Dance and Outdoor Dining on Private Property at 66 Cove Street.

Application was filed on 2/5/2019. New City application. Location was previously a mechanical contractor.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 161-18/19 Amendment to the Zoning Map Re: Section of Forest Avenue to Community Business B-2B - Sponsored by the Planning Board, Sean Dundon, Chair.

In 2016, the City Council supported Councilor Ray's motion to have the Planning Board consider a zoning map amendment from the current Community Business B-2 zone and the Residential R-5 zone to the Community Business B-2b zone. The referral asked the Planning Board for a recommendation on whether the B-2b, which promotes a more urban form and limits drive-throughs, is a more appropriate zone for this area.

The Planning Board considered the Council Request and held the public hearing on March 22, 2016. The Planning Board voted (6-1, Whited opposed) to recommend to City Council the adoption of the zoning map amendment to rezone a portion of Forest Avenue to Community Business B-2b. Lisa Whited opposed the map amendment, preferring a holistic solution to addressing auto related businesses and for transforming Forest Avenue. The majority of the members supported the map amendment and agreed with Ms. Whited that further analysis of the B-2 zones and drive-throughs was warranted. The Board's recommendation for the drive-through text amendments to the B-2 zones are coming forward concurrently with the recommended map amendment. The text amendments would re-introduce the drive-through use in the B-2b zone, subject to the use being associated with the bank or pharmacy in a minimum of a 3 story building with the majority of the upper floors in residential use (a minimum of 3 dwelling units).

This item must be read on two separate days. It received its first reading on February 20, 2019. Five affirmative votes are required for passage after public comment.

Order 162-18/19 Amendment to the Portland City Code Chapter 14 Re: Drive-throughs in the B-2, B-2b and B-2c Community Business Zones - Sponsored by the Planning Board, Sean Dundon, Chair

The Planning Board unanimously recommends adoption of text amendments to the B-2, B-2b and B2c zones to allow bank and pharmacy drive-throughs in all B-2 zones, but only when they are in developments that include upper story housing. Currently, drive-throughs associated with permitted uses are allowed in B-2 and B-2c as a conditional use, but no drive-throughs are allowed in the B-2b zone. This proposed amendment would allow drive-throughs in all of these zones, but only in multiple story buildings with housing above. Specifically, the proposed text amendments revise the B-2 Table of Uses to limit drive-throughs to those associated with a pharmacy or banking facility in the three B-2 zones as a conditional use. A proposed footnote in the Use Table clarifies that drive-throughs are not permitted for restaurant, bakery or other food or beverage service uses. The conditional use standards for drive-throughs are revised to only permit a drive-through (associated with a bank or pharmacy) in a building of 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units. Screening, location of drive-throughs, and stacking capacity for safe pedestrian and vehicle circulation on and off site are included in the location standard and the other existing 5 standards are retained.

This item must be read on two separate days. It received its first reading on February 20, 2019. Five affirmative votes are required for passage after public comment.

ORDERS:

Order 172-18/19 Approving Federal Aviation Administration Airport Improvement Program Grants - Sponsored by Jon P. Jennings, City Manager

The Federal Aviation Administration issues grants to fund eligible safety and capacity projects at airports nationwide through the Airport Improvement Program (AIP). This program is funded through federal taxes on commercial air fares and on aviation fuel taxes. The amount of entitlement funding allocated to each airport is based on the annual number of enplaned commercial passengers the airport handled in the prior calendar year. This year the Portland International Jetport has AIP entitlement funding totaling \$3.93 million based upon 925,903 enplaned passengers in 2017. In addition to entitlement funding the Jetport is also seeking AIP discretionary funding of \$3.74 million in federal fiscal year 2019. Two projects have been planned this year which include: the construction of Taxiway B to connect Runway 36 to 29; and the expansion of the terminal aircraft apron to provide an additional aircraft deicing pad, aircraft hold area, and aircraft overnight parking. These projects will be procured under two construction contracts with a total engineer estimated cost for both projects of \$8.52 million.

The AIP funding amount for these projects of \$7.67 million is 90% of the total cost for the project. The balance of \$850,000 is covered locally through the Jetport's operating budget and through state funding of up to 5% of project costs.

Five affirmative votes are required for passage after public comment.

Order 173-18/19 Setting Public Hearings on Fiscal Year 2020 Annual Action Plan and Appropriations for Community Development Block Grant Program, HOME Program and Emergency Solutions Grant Program - Sponsored by Jon P. Jennings, City Manager

As required under our Housing and Urban Development-approved citizen participation process, Public Hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing fiscal year. The Community Development Block Grant (CDBG) Annual Allocation Committee, appointed by Council, reviewed each application and made funding recommendations. The Committee is given an opportunity to make a presentation to the Council, and citizens may comment on the City's annual plan for the use of CDBG, HOME and Emergency Solutions Grant funds.

Public hearings will be held on March 18, 2019 and April 8, 2019 at City Council meetings held at 5:30 p.m., both in Portland City Hall, Council Chambers, 389 Congress Street.

Five affirmative votes are required for passage after public comment.

Order 174-18/19 Authorizing Finance Director To Accept Donations For The Portland Community Support Fund - Sponsored By Jon P. Jennings, City Manager

Currently the City Council is required to accept donations to the City. This order authorizes the Finance Director to accept donations for the Community Support Fund on behalf of the Council. Donations received will be brought forward for formal appropriation at a later date, likely during the budget process.

Five affirmative votes are required for passage after public comment.

AMENDMENTS:

6:00 P.M. PUBLIC COMMENT PERIOD ON NON-AGENDA ITEMS:

EXECUTIVE SESSION:

MEMORANDUM
City Council Agenda Item

FROM: Benjamin Pearson

DATE: February 14, 2019

SUBJECT: **Order 163-18/19 Appointing Long Creek Watershed Management District Directors Curtis Bohlen and Douglas Roncarati - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

Can action be taken at a later date: Yes

PRESENTATION:

I. SUMMARY

This request is to renew the appointments of Curtis Bohlen and Douglas Roncarati to the Long Creek Watershed Management District Board of Directors to fill two positions on the Board of Directors as representatives from the City of Portland.

II. AGENDA DESCRIPTION

The Long Creek Watershed Management District (LCWMD) was created by Inter-local agreement among the municipalities of South Portland, Portland, Westbrook and Scarborough for the purpose of implementing the Long Creek Watershed Restoration Plan. The agreement was executed in August 2009. There are up to 16 Governing Board members of the LCWMD. The By-laws call for two (2) positions on the Board of Directors to be representatives from the City of Portland.

The City of Portland's two Board of Directors positions have been consistently held by a representative from the City and a representative from a local nonprofit agency. Doug Roncarati, Stormwater Coordinator at the Department of Public Works, serves as the municipal representative and Curtis Bohlen, Director of the Casco Bay Estuary Partnership, serves as the nonprofit representative. Both are seeking reappointment to the LCWMD Board of Directors. If approved, Douglas Roncarati's term would expire on February 15, 2021 and Curtis Bohlen's term would expire on October 21, 2021.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

Long Creek is an urban stream system that flows through South Portland, Portland, Westbrook, and Scarborough. Long Creek currently does not meet the water quality standards established for Class C Streams, which "must be of sufficient quality to support all species of fish indigenous to the receiving waters and maintain the structure and function of the resident biological community." Long Creek has long been the

subject of many studies and reports. What the data suggests is twofold:

1. As stated in the Long Creek Watershed Management Plan (LCWMP), “years of urbanization have significantly impaired the stream’s health, as well as its ability to support recreation and wildlife, such as brook trout.”
2. Water quality impairments are a result of increased concentrations of metals, chloride, phosphorus, nitrogen, polycyclic aromatic hydrocarbons (PAHs), and reduced dissolved oxygen (DO) concentrations.

The Long Creek Restoration Project began in 2007 as a collaborative, community-based initiative convened by the City of South Portland and led by a Steering Committee made up of representatives from the four Long Creek watershed municipalities (South Portland, Portland, Westbrook and Scarborough), area businesses, non-profit organizations, and state agencies. The City of South Portland obtained a grant from United States Environmental Protection Agency (EPA) and Maine Department of Environmental Protection (DEP) to partner with the other watershed municipalities and individual stakeholders in this effort.

In 2009 the United States Environmental Protection Agency (EPA) exercised a provision in the Clean Water Act, known as Residual Designation Authority (RDA), which requires stormwater permitting for designated discharges in the Long Creek watershed. The resulting permits, a collaboration between EPA and DEP, require “an operator of property...to obtain a Maine Pollutant Discharge Elimination System permit” for any parcel or property in the Long Creek watershed with one or more acres of impervious cover (IC). This precedent-setting use of the RDA provision led to the establishment of the Long Creek Watershed Management District and a corresponding annual IC fee.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The City Council will reappoint Curtis Bohlen and Doug Roncarati as City of Portland representatives to the LCWMD Board of Directors.

Advance Environmental Program: Advance an environmental program that safeguards our natural resources, promotes a healthy lifestyle and supports a sustainable economy;

Improve City Services: Operate the city government in an efficient and effective manner that is responsive to all segments of the community in a manner that is transparent and accountable and;

Intergovernmental Collaboration: Create a collaborative process for the on-going establishment of pro-active priorities at the regional, state and federal levels that advance the interests of the city.

V. FINANCIAL IMPACT

None

VI. STAFF ANALYSIS AND BACKGROUND

Portland has played a critical leadership role in the development of the LCWMD and implementation of the Long Creek Watershed Management Plan. As a Participating Landowner (i.e.: Owner of property subject to the Long Creek Watershed “Stormwater General Permit”), Portland’s representatives to the Board of Directors help to ensure the successful implementation of the Plan and Permit. Active participation in the LCWMD has

helped the City to meet some of its Clean Water Act compliance requirements within this watershed in a more cost-effective manner than the alternative. This partnership also provides the opportunity for regulated communities, State agencies, local water resource advocacy groups and the affected business community to collaborate on the mutually beneficial goal of water resources protection and restoration.

VII. RECOMMENDATION

Staff recommends that the City Council reappoint to the LCWMD Board of Directors Curtis Bohlen for a term ending October 21, 2021 and Doug Roncarati for a term ending February 15, 2021.

VIII. LIST ATTACHMENTS

1. Long Creek Watershed appt. Bohlen and Roncarati 3.4.2019

Prepared by:

Benjamin Pearson

Date: 02/14/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER APPOINTING LONG CREEK
WATERSHED MANAGEMENT DISTRICT DIRECTORS
CURTIS BOHLEN AND DOUGLAS RONCARATI**

ORDERED, that the City Council hereby appoints to the Long Creek Watershed Management District Board of Directors Curtis Bohlen for a term that expires on October 21, 2021 and Douglas Roncarati for a term that expires on February 15, 2021.

FROM: Ted Musgrave

DATE: February 4, 2019

SUBJECT: **Order 164-18/19 Declaring July 27, 2019 the 17th Annual Greater Portland Festival of Nations - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings, City Manager.

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 03/04/2019 **Final Action 03/04/2019**

PRESENTATION: none

I. SUMMARY

This is an annual event organized by Mugadi Foundation that showcases Maine's ethnic diversity: the festival features music, food, cultural exhibits, children's activities and folk art from America and many nations around the world.

II. AGENDA DESCRIPTION

This order declares Saturday, July 27, 2019 the 17th Annual Greater Portland Festival of Nations. This festival at Deering Oaks Park showcases Maine's ethnic diversity with music, crafts, and cuisine.

III. BACKGROUND

This will be the 17th annual Festival of Nations held at Deering Oaks Park (Saturday, July 27, 2019, 11am – 7pm). The festival, organized by Women In Need Industries and Mugadi Foundation, showcases Maine’s ethnic diversity. The festival features music, food, cultural exhibits, children’s activities, and folk art from America and many nations around the world. 2,500+ people are expected to attend the day’s events. Admission is FREE. Refreshments, crafts, artwork, and other items will be for sale. The Festival is held rain or shine.

This festival will again be held on Saturday. Farmers Market is held in Deering Oaks Park then, and (for just the date of the festival) will be moving their setup to Bowling Green Lane, so that setup for the Festival of Nations can take place at the Bandstand and along Farmers Market Rd. The Friends of Deering Oaks Park has reviewed and endorsed the festival (and Farmers Market have voted to move that day to Bowling Green).

In order to safely hold the festival and to assist in setup, the main roadway into Deering Oaks Park needs to be closed to traffic at approximately 10am, July 27, 2019 (opens back up again at 8pm). This park roadway would also need to be posted “No Parking.”

The Festival Zone for this event includes: Deering Oaks Park - to include the Bandstand and grass

areas surrounding the bandstand, the Ravine Water Play area, the Bowling Green grass area, and park roadways: Tennis Court Rd., Jenny Lane, and Farmers Market Rd.

The Festival area (north side of the pond) will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of the organizer and Mugadi Foundation for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

Vehicles in violation of the “No Parking” signs in the Festival Zone shall be towed at owner’s expense.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to organizers of The Festival of Nations for the use of the above-described area for said festival, subject to the following conditions:

In-kind services/waiver of fees from the City of Portland include:

Public Assembly Facilities Division: permit fees for use of grounds, banner fees, “No Parking” sign fees, barricade delivery and single concert license;

Public Works: removal of trash; Business Licensing: licensing fees for vending and food service; No Police, Parking Control, or EMS assistance should be necessary unless the Police Department deems coverage is necessary due to attendance, traffic concerns, etc. In that case, those fees would need to be paid by organizer;

Conditions for use of grounds, specified in a permit issued from Public Assembly Facilities Division shall be adhered to, and organizers shall leave on file security deposits for use of the park;

Festival of Nations/Women In Need Industries/Mugadi Foundation shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the “Festival of Nations” activities, and the City will be endorsed on the festival organizer's insurance policy;

Festival of Nations/Women In Need Industries/Mugadi Foundation shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival of Nations; and

Under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said festival.

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

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Approval of Festival.

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

Recommend Passage.

VIII. LIST ATTACHMENTS

1. Festival of Nations 2019

Prepared by:

Ted Musgrave

Date: 02/04/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING SATURDAY, JULY 27, 2019
THE 17TH ANNUAL GREATER PORTLAND
FESTIVAL OF NATIONS**

ORDERED, that Saturday, July 27, 2019 is hereby declared to be the 17th Annual Greater Portland Festival of Nations, sponsored by Women in Need Industries (WINI), Inc; and

BE IT FURTHER ORDERED, that the 17th Annual Greater Portland Festival of Nations area shall include the Bandstand and Farmers Market Road inside Deering Oaks Park, the Ravine Water Play Area and park roadways including Tennis Court Road and Jenny Lane; and

BE IT FURTHER ORDERED, that main road into Deering Oaks Park will be closed to traffic from 10:00 a.m. to 8:00 p.m. on July 27, 2019; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area (interior roadways) shall be towed at owner’s expense; and

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

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to Women in Need Industries (WINI), Inc under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. Women in Need Industries (WINI), Inc shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Women in Need Industries (WINI), Inc shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area;
3. The following fees and expenses shall be waived by the City and in-kind contributions shall be made by the City to the Festival:

Public Assembly Facilities Division permit fees for use of grounds, banner fees, “No Parking” sign fees, barricade delivery and single concert license; Public Works Department trash barrels and removal of trash; Business Licensing licensing fees; and

4. No Police, Parking Control, or Emergency Medical Services assistance should be necessary unless the Police Department deems coverage is required due to attendance, traffic concerns, etc., in which case, those fees would need to be paid by Women in Need Industries (WINI), Inc;
5. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in a permit issued from the Public Assembly Facilities Division Office shall be adhered to, and the Organizers shall leave on file security deposits for the use of the park;
6. Women in Need Industries (WINI), Inc shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the 17th Annual Greater Portland Festival of Nations; and

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

FROM: Ted Musgrave

DATE: February 4, 2019

SUBJECT: **Order 165-18/19 Declaring August 3, 2019 the Picnic Craft Fair Festival - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings, City Manager.

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 03/04/2019 **Final Action 03/04/2019**

PRESENTATION: none

I. SUMMARY

This is an annual event organized by Pinecone & Chickadee that showcases 100+ crafters wares in Lincoln Park, Saturday, August 3, 2019, running 11am - 6pm (rain date: Sunday, August 4).

II. AGENDA DESCRIPTION

This order declares Saturday, August 3, 2019 as the Picnic Craft Fair Festival, (with a rain date of Sunday, August 4, 2019). Lincoln Park will be filled with 100 plus crafters selling their wares to attendees.

III. BACKGROUND

Picnic Craft Fair is a collaborative effort, headed up by festival organizers and co-founders: Noah DeFilippis and Amy Teh, designers and owners of Pinecone+Chickadee, a store and design studio. This year's event would make it the 11th year the festival is at Lincoln Park.

The festival will showcase 100+ of the most talented emerging artists from the local indie craft scene (festival runs 11am – 6pm). Crafters and artists will sell handmade products. Shoppers can expect clothing, jewelry, prints, bags, dolls, paper goods, housewares, fine art, vintage goods, bicycles, records, and more. A few local food vendors will be on site. A small PA system may be used, mainly for announcements. There is no admission fee to the festival. Participating artists and vendors pay a registration fee to be on site at the event.

Overall attendance for the day is anticipated at 500 people (with 75-100 people in the park at any one time). Friends of Lincoln Park have endorsed the event.

Setup for the festival begins at 8am. Organizers will be cleaned up and out of the park by 7pm. Canopies and tables will be set up on the grass area beside the sidewalks in the park, thereby keeping much of the customer foot traffic to the hardscape areas.

In order for this festival to be held, some reserved parking is needed on Federal Street and Congress Street (beside Lincoln Park).

The Festival area / Festival zone (Lincoln Park itself and the abutting sidewalks as well as Congress Street Parking Lane beside the park) will be closed to street vendors and artists pursuant to Section 19-17 of the Portland City Code and is reserved for Picnic organizers, for the purpose of conducting the Festival, subject to the direction and control of the City Manager. Organizers also request that the Food Truck parking spots on Congress Street beside Lincoln Park be reserved that day for Picnic Craft Fair vendors (i.e. give exclusivity to Picnic food vendors, and not open up those spots to regular food trucks).

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

The Picnic Festival organizers, Noah DeFilippis and Amy Teh, shall reimburse the City for all expenses incurred by City Departments for said Festival;

The Picnic Festival organizers shall take steps to ensure any and all public announcement (PA) and other speakers or amplifiers used to amplify music or other sound, be maintained at a reasonable level and be configured by organizers to create the least amount of noise disturbance to area residents;

The Picnic Festival organizers agree to leave a Noise Control Security Deposit on file at the PAFD Office;

The Picnic Festival organizers shall be solely responsible for trash cleanup at the festival and shall be required to leave a Park Security Deposit on file at the PAFD Office;

Under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said festival;

The Picnic Festival organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival, and in addition, the Food Truck parking on Congress Street beside Lincoln Park, shall be reserved strictly and exclusively for only Picnic Craft Fair affiliated vendors;

Conditions for use of grounds and requirements for food service, vending sales, concert licensing, tent and stage installations, and other items specified in a permit issued from PAFD Office, shall be adhered to; and

The Picnic Festival organizers shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the "Picnic Craft Fair Festival" activities, and the City be endorsed on the policy.

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

have been met regarding the operation of said event.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Approval of Festival.

V. FINANCIAL IMPACT

Festival organizers pay a fee to the city to rent the park. Organizers also cover additional city costs and license fees.

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

Recommend Passage.

VIII. LIST ATTACHMENTS

1. Picnic Craft Fair Festival 2019
2. Picnic 2019 - Lincoln Park - AP (council)

Prepared by:

Ted Musgrave

Date: 02/04/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER DECLARING AUGUST 3, 2019
THE PICNIC CRAFT FAIR FESTIVAL**

ORDERED, that Saturday, August 3, 2019, with a rain date of August 4, 2019, is hereby declared the Picnic Craft Fair Festival, a collaboration by organizers, Noah DeFilippis and Amy Teh, and the organizers are hereby authorized to use Lincoln Park from 11:00 a.m. to 6:00 p.m. for this free event to showcase crafters' and artists' work; and

BE IT FURTHER ORDERED, that the festival area (Lincoln Park itself, the abutting sidewalks, and the parking lane beside the park on Congress Street) will also be closed to street artists pursuant to Section 19-17 of the Portland City Code and is reserved for the use of the Picnic Craft Fair, subject to the direction and control of the City Manager; and

BE IT FURTHER ORDERED, that setup for the festival begins at 8:00 a.m., and organizers shall finish clean up and exit the park by 7:00 p.m.; and

BE IT FURTHER ORDERED, that parking shall be reserved for Festival vendors on Federal Street and Congress Street (beside Lincoln Park); and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit under Section 25-27 of the Portland City Code subject to the following conditions:

- Picnic Craft Fair Festival organizers, Noah DeFilippis and Amy Teh, (hereinafter, the Picnic Craft Fair Festival Organizers) shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Picnic Craft Fair Festival Organizers shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

- Under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said festival;
- The Picnic Craft Fair Festival Organizers shall reimburse the City for all expenses incurred by City Departments for said Festival; and
- The Picnic Craft Fair Festival Organizers shall take steps to ensure any and all public announcement (PA) and other speakers or amplifiers used to amplify music or other sound, be maintained at a reasonable level and be configured by organizers to create the least amount of noise disturbance to area residents; and
- The Picnic Craft Fair Festival Organizers agree to leave a Noise Control Security Deposit on file at the Public Assembly Facilities Division Office; and
- The Picnic Craft Fair Festival Organizers shall be solely responsible for trash cleanup at the festival and shall be required to leave a Park Security Deposit on file at the Public Assembly Facilities Division Office; and
- The Picnic Craft Fair Festival Organizers shall have the sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the Festival; and Food Trucks parking on Congress Street beside Lincoln Park shall be strictly limited to those permitted as a Picnic Craft Fair vendor; and
- Conditions for use of grounds and requirements for food service, vending sales, concert licensing, tent and stage installations, and other items specified in a permit issued from Public Assembly Facilities Division Office, shall be adhered to; and

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



CITY OF PORTLAND, PUBLIC ASSEMBLY FACILITIES DIVISION
PUBLIC PARK & SPACE APPLICATION (5 pages)
 212 Canco Rd. • Portland • ME • 04103 • (207) 808-5400 x0
 Ted Musgrave tvm@portlandmaine.gov

APPLICATION FEE \$25.00

PAYMENT MUST BE MADE WHEN SUBMITTING APPLICATION

(This is a transferrable/non-refundable fee. If your event is permitted, the \$25.00 will be credited toward your permit fee.)

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

TODAY'S DATE		1-25-2019 Revised: 1-25		ORGANIZATION NAME		Picnic LLC	
ADDRESS (Street/City/State/Zip)		6 Free Street, Portland, Maine 04101					
CONTACT NAME(S)		Noah DeFilippis and Amy Teh			TITLE(S)		Co founders
PHONE		PHONE		PHONE		PHONE	
EMAIL	picnicportland@gmail.com			EMAIL		EMAIL	

PARK AREA / PUBLIC SPACE REQUESTED	Lincoln Park and adjoining sidewalks Parking spaces of Congress Street, Pearl Street, Federal Street		
EVENT DAY(S) & DATE(S)	Saturday 8-3-2019	RAIN DAY(S) & DATE(S) (50% added fee)	Sunday 8/4/19
OVERALL EVENT START & END TIME (When setup will begin until cleanup is expected to be complete.)	8am to 7pm	EVENT START & END TIME	11am to 6pm

EVENT NAME		EXPECTED ATTENDANCE
Picnic Craft Fair		500
DESCRIPTION OF EVENT: Please be specific regarding area of public space/park and describe EVENT in detail . Please include a detailed MAP of the proposed EVENT AREA, proposed ROUTE (road race) &/or proposed STREET CLOSURE (parade, March, rally, etc.), as these will need to be approved by City Departments. Please provide a link(s) to social media sites being used to publicize the event. 100+ Crafters and artists will be selling handmade products in a variety of materials. Canopies and tables will be set up on the grass so that attendees may use the sidewalks areas to view merchandise. Shoppers can expect clothing, jewelry, prints, accessories, bags, dolls, paper goods, housewares, fine art, vintage goods, records, and much more. 2 to 3 Food Vendors will be on site. Small Boom Box (battery - radio) will be at the INFO BOOTH. 10 parking spaces need to be reserved. NO electricity needed. Organizer will rent Porta-Restrooms (place on concrete beside the wrought iron fence, close to Federal Street – but just inside the park). Organizers have requested that the FOUNTAIN be turned on. Food Trucks normally permitted to park on Congress Street beside Lincoln Park shall not be allowed to park there during this Festival, unless permitted as a Picnic vendor. NO CHARGE TO ATTEND. VENDORS PAY FEE TO PARTICIPATE.		
IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?		Please check: ☒ FEE ☐ PLEDGES
IF YES FOR FEES, HOW MUCH?	FEE	\$150
	STUDENT FEE	\$

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN? <i>We will need some reserved parking along Federal St, beside the park</i>
--

PLEASE CHECK OFF AND ANSWER:

PLEASE SEE ATTACHED FEE SCHEDULE / DEPT. INFORMATION IF YOU ANSWER YES

	X-YES	X-NO	X-NOT SURE
* Are you setting up a canopy(s) ? (10'x10' size or smaller) How many? 120	X		
* Do you wish to set up a tent(s) and/or stage(s) ? A canopy/tent or stage larger than 10'x10' needs a Temporary Tent or Stage Permit issued by Building Inspections. For permit application, please go to: http://portlandmaine.gov/DocumentCenter/Home/View/2317 or contact the Permitting and Inspections Department at buildinginspections@portlandmaine.gov or 874-8703 for more information. PLEASE apply at least 2-weeks before your event. Tent/Stage Size(s): Exact Location(s) of Tent/Stage Placement Requested: *** In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233. ***		X	
* Will you be setting up tables and/or chairs ? How many tables: 100 chairs: 200	X		
* Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List:		X	
* Will there be refreshments at the event? Do you wish to sell food ? If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office. PLEASE provide them at least 2 weeks advance notice (874-8557). List food and drink / Food Trucks, etc.: PLEASE NOTE: A Temporary Food Service License is NOT needed when: 1. Food Vendors have a current City of Portland Food License 2. Just pre-packaged refreshments, or food & drink items are purchased or donated from a licensed establishment 3. Bottled water / water is served A TFSL is needed when food vendors are not licensed or when food is being prepared and cooked at the event.	X		
* Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.)? If so, please apply for a Street Goods Vendor License(s) at the Business Licensing Office (874-8557) – 2 week notice. List items you wish to sell:	X		
* Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Band? DJ? Boom Box? yes If so, your event may require a concert license. PAFD will advise upon review of your application. Amplified speech (i.e. Press Conference) does not require the license, however, a Sound Security Deposit may be required. There are time restrictions for amplified music/speech in Downtown Parks & Squares: limited to 11:45am – 1:15pm and 1 hour between 5pm - 8pm.	X		
* Will your event require electricity ? Electricity is available at Deering Oaks Park, Monument Square, Congress Square, Tommy's Park, Post Office Park, Payson Park, Preble Street Grass Area, Eastern Prom, Fort Allen Park, and Lincoln Park. A \$40 activation fee is required.		X	
* Are you planning on bringing a Grill for a Barbecue ? Grilling is subject to weather conditions and possibly Fire Dept. review.		X	
* Will the event require reserved parking spaces / parking meters ? How many? 10 "No Parking" signs may be purchased at the PAFD Office, 212 Canco Rd.	X		
* Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow/rent: Limited orange vests, cones & barricades may be borrowed/rented from PAFD Office. Traffic signs may be borrowed/rented from Public Works if needed (874-8493).	?	X	
* Will your event require street closures ? (Please be specific under "Description of Event") Will your event affect METRO BUS ROUTES ? (If service is affected, organizer needs to work directly with METRO for endorsement / feedback). Please check with Glenn Fenton, METRO: 517-3029 (gffenton@gpmetrobus.com) to discuss.		X	
* Will your event require Police assistance? An event such as a road race, march or parade in the street, would typically require police assistance. To reserve & hire an Officer(s) to be on site at your event, please call Sgt. Nevins (874-8554) or Police Shift Command (874-8855/8556) well in advance to arrange.		X	
* Will your event require Fire/EMS assistance? (For a large walk/race, it may be required.) To hire or inquire about hiring city Fire/EMS staff to be on site, please email fireprevention@portlandmaine.gov well in advance of the event. For general questions, you may also call 874-8400.		X	
* Will your event require Parking Control assistance? To hire a Parking Control Officer(s) to be on site at your event, please call 874-8910 well in advance to arrange.		X	
Fees for Police, Fire/EMS or Parking Control Staff will be invoiced by those individual departments & should be paid to them directly.			
* Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.) Porta-restrooms may be rented from any of the local companies. Units currently on site are through Associated Septic.	X		
* Do you wish to have a banner over the street to advertise your event? (Banners hung over Congress St. or Baxter Blvd). Banner inquiries directed to PAFD: 808-5400 x0.		X	

INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance? (Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)	X NEED		
♦ If you answered YES, you shall procure and maintain occurrence-based Commercial General Liability and Product Liability Insurance, when required, in an amount not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage. You shall name the City of Portland as an additional insured or shall obtain a general liability extension endorsement, for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. The terms of this permit and the insurance coverage shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the CITY under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. You shall also be responsible for any and all deductibles and/or self-insured retentions. ♦ Both the Certificate of Insurance and Additional Insured Endorsement shall be sent to tvm@portlandmaine.gov and must state that the policy is endorsed to name the City of Portland as an additional insured pursuant to the date of the event (and rain date).				

PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

EVENT REVIEW

The PAFD Office holds a monthly meeting where proposed events are discussed and reviewed by City Departments. For some events, organizers will be asked to present before the committee. Some potential factors may necessitate your event receive City Council approval.

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements. If a generator is used, please take all necessary measures to ensure safe operation. Bring a fire extinguisher, set generator up away from activities (and combustibles), store fuel source away from the generator and keep children away from the generator.

BARBECUES - GAS GRILLS ONLY

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

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where refreshments are being served. Some of Portland's parks already have portable restrooms from Associate Septic on site (*Preble Street Grass Area at the Preble Street Parking Lot – across from Hannaford's, *Entrance to Dyer's Flat – beside Payson Park, *Deering Oaks Park – Playground + Ravine, *East End Beach - Winter & Early Spring: Just EEB.) If over 150 people are expected to attend the event, a \$25 user fee is required (paid to PAFD). If extra units are rented by organizer, then no additional user fee is assessed. Restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic / Royal Flush, 207-799-1980, M-F) to request and pay for a cleaning. If renting units, organizer has the option of renting from Associated Septic / Royal Flush, or from other local companies.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

MARKING OF GROUNDS

Please DO NOT mark city property in any permanent way.
DO NOT use SPRAY PAINT or SPRAY CHALK. DO NOT STAPLE or NAIL anything to trees.
Children's Art Chalk can be used on hardscape areas with permission from PAFD Office. Tape may also be used.
If markings remain for more than a few rain storms, event organizers are responsible for removing them.
If city staff or contractors need to remove the markings, event organizers are responsible for the cost of staff time and materials.
You may also place signs on stakes in the grass areas bordering trails/race routes (when applicable).
Please remove all signage immediately following the event.

USE OF CANDLES

It is preferred that LED lighted candles or glow sticks are used. If flammable candles are used, please make sure all candles have drip protectors to prevent wax from dripping on hardscape surfaces, which may cause permanent stains/damage. Please make sure all candles are extinguished before being thrown away. Please collect all spent candles so there is no trash left behind. Please take safety precautions: bring a fire extinguisher, gallon of water, etc. in case of fire. **Any damage** (dripped wax absorbed into hardscape causing stains, etc.) **will result in a forfeiture of your security deposit.**

ADA COMPLIANCE

Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

Vehicles are prohibited from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$20 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas will result in a forfeiture of your security deposit.**

RESERVED PARKING

To reserve parking for your event, please contact the PAFD Office (808-5400 x0). Staff will review your request and can issue you "No Parking" signs (\$20 each*). You will need to label signs and tape them to meters or signposts AT LEAST 24 HOURS PRIOR TO YOUR EVENT. (NOTE: If event is on a Sunday or Monday, NP Signs may need to be posted on the preceding Friday by Noon.) Please do not cover up coin slots on meters. If the reserved parking area has no actual parking meters, you may need to tape signs to sign posts, utility poles, trees, or orange cones (placed on the sidewalk beside the street). The PAFD Office has cones it can rent to you (see fee structure below) if needed. To ensure you can have vehicles (illegally parked at signs you've posted) towed, please complete and fax/email/hand deliver to city departments a "No Parking Authorization Form," which you can get from staff when you pick up NP signs. Please make sure signs are removed once the event is complete. ***Under certain conditions, the reserved parking fee may be reduced. Upon review of your application, PAFD will advise if your event qualifies for a reduction. If paying a reduced rate, towing may not be enforceable. PAFD will advise regarding these parameters as well.**

ALCOHOL / SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Consumption of alcohol is prohibited in public spaces unless specifically approved by City Council. Please inform all participants / attendees.

AMPLIFIED SOUND POLICY

Outdoor events with amplified sound may require a Concert License from the PAFD Office.
If the Police Dept./City Staff receive noise complaints, they will respond accordingly.
PA System up with speakers facing away from businesses/residences to lessen impact.
Please keep volume levels low out of consideration for nearby residents and businesses.
The Permittee (organizer) shall not allow the sound emanating from the event to exceed an A-weighted 92 decibels. One verbal warning shall be issued if the sound has been found to have exceeded 92 decibels. The warning may be given to the sound board operator or the organizer/organizer's designee. If the 92 decibel limit is found to have been exceeded a second time during the same event, the single event concert permit (or permission to use a bullhorn/PA system) shall be immediately suspended, the PA system / amplification / bullhorn turned off, and the sound security deposit forfeited.

CANCELATION POLICY

Event must be cancelled with PAFD prior to event date in order to be eligible for a refund.
If cancelled within 2 weeks of scheduled event date, a \$75 cancellation fee may be charged.

NOTIFICATION

Please keep a copy of your event permit on site at all times. City staff may require proof of permit.
If there are members of the public in the reserved space upon arrival, please present the permit as proof of reservation & approved usage. If you need assistance, please contact the Police Department at (207) 874-8574.
Please ask Portland newspapers to run an article alerting the public to the event.
You may put up temporary A-frame signs to alert the public to your event or place signage on orange cones, etc. Signs are to be up DAY OF EVENT ONLY. Please remove all signage immediately following the event.
Please call Portland Police Dept. (874-8574) on the day of your event to remind them it is taking place.
Please notify any nearby businesses, including restaurants that may have tables out for dining, to alert them to your event.

STREET CLOSURE NOTIFICATION

Should event involve a Street Closure, lasting longer than an hour, PAFD Office requires organizers to give advanced notification to area businesses, residents and bus companies (in the form of a "Street Closure Sign Off Sheet"). If event impacts METRO Buses, organizer (in advance) must discuss detour plans with METRO.

REVOCABLE PERMIT

- ♦ The City reserves the unconditional right to control or cancel events to protect and/or prohibit damage to public property.
- ♦ The City reserves the unconditional right to revoke or revise an issued permit.
- ♦ Police or City Staff on site may use their discretion to revise conditions of use.

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES**TYPE INITIALS****ND****DATE****1.25.19****ASSUMPTION OF RISK & LIABILITY**

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

I have read the Assumption of Risk & Liability Agreement**TYPE INITIALS****ND****DATE****1.25.19****FEE SCHEDULE – UPDATED JULY 1, 2018**

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

Simple Event (no registration fee): \$75/hour	Electricity (activation/de-activation) Fee: \$40/flat
Event with registration or pledges & attendance 25 - 300: \$125/hr	Porta Restroom User Fee (if attendance is 150+): \$25
Event with registration or pledges & attendance 301+: \$225/hr	Single Concert License: \$38

Public Space/Park Security Deposit: \$100 - \$1000 Sound Security Deposit: \$100 - \$1,000 Impact/Street Closure Fee (variable based on impact): \$100-\$500 Staff Fee (on site event support): \$37/hour Administrative Fee (event coordination support): \$40/hour or more "No Parking" Signs: \$1 / \$20 each Cancellation Fee: \$75	Barricades: \$5/ea. Rental Fee + \$25/ea. Security Deposit Bike Racks: \$10/ea. Rental Fee + \$25/ea. Security Deposit Flashing Lights: \$10/ea. Rental Fee + \$40/ea. Security Deposit Cones: \$2/ea. Rental Fee + \$15/ea. Security Deposit Safety Vests: \$15/ea. Security Deposit Keys: \$50/ea. Security Deposit Equipment Delivery Fee: \$100
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PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"
◆ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION (Please make all security deposit checks out separately)			
Permit Fee for use of area:	\$ 2,475 +	Single Concert (Amplified Sound) License Fee:	\$ N/A
Number of Hours of Use: Approx. 11 hrs	1,237	Equipment Rental Fee:	\$ TBD
	(rain date)		
	Total:		
	\$3712 due		
Staff Fee (on site event support):	\$ TBD	Public Space / Park / Sound Security Deposit:	\$ 500 due
Admin. Fee (event coordination support):	\$ TBD	Borrowed / Rented Equipment Deposit:	\$ TBD
Electricity Fee (activation/de-activation):	\$ N/A	Additional Fees:	\$ TBD
Impact/Street Closure Fee (variable based on impact):	\$ N/A	(Porta-Restroom User Fee, "No Parking" Signs, etc.)	

FOR OFFICE USE ONLY									
DATE APPLICATION RECEIVED:									
APPLICATION FEE:	\$ 25.00	PERMIT FEE:	\$ NEED	SECURITY DEPOSIT:	\$ NEED	INSURANCE NEEDED?	Yes - DUE		
DATE RECEIVE		DATE RECEIVED		DATE RECEIVED		DATE RECEIVED			
PAYMENT TYPE									
VISA / MC NUMBER:				CHECK NUMBER		CHECK AMOUNT:	\$	CASH AMOUNT:	\$
CREDIT CARD AMOUNT:	\$	CREDIT CARD EXP. DATE:		CHECK NUMBER		CHECK AMOUNT:	\$	CASH AMOUNT:	\$
CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED									

PLEASE RETURN FORM (WORD DOC) AT LEAST 30 DAYS IN ADVANCE TO:
◆ Public Assembly Facilities Div. ~ 212 Canco Rd. ~ Portland ~ ME ~ 04103 EMAIL PREFERRED: tvm@portlandmaine.gov

FROM: Ted Musgrave

DATE: February 4, 2019

SUBJECT: **Order 166-18/19 Declaring August 25, 2019 the Pet Rock in the Park 2019 Festival - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings, City Manager.

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 03/04/2019 **Final Action 03/04/2019**

PRESENTATION: none

I. SUMMARY

This is an annual event organized by Portland Radio Group that showcases music bands and all things pets, Sunday, August 25, 2019, running 11am - 4pm, in Deering Oaks Park.

II. AGENDA DESCRIPTION

This order declares Sunday, August 25, 2019 the Pet Rock in the Park 2019 Festival. Deering Oaks Park will be filled with music, booths from local animal shelters and pet stores, and a variety of food from restaurants and food trucks.

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

III. BACKGROUND

Pet Rock in the Park, organized by Portland Radio Group, has been held in Deering Oaks Park for a number of years now. Each year, attendance increases. This year's event is expected to bring in over 3000 people: events of 2000 or more people in a city park need to be approved by City Council.

Pet Rock in the Park raises funds for the animal-related charity Emma's Foundation for Canine Cancer, and will feature live bands playing classic rock, a variety of food offerings from restaurants and food trucks, many booths from local animal shelters and lots of pet-related businesses on hand to showcase their pet wares and services.

There is no admission charge to the event, but participating businesses and organizations pay a registration fee to organizers to be on site.

The Friends of Deering Oaks Park have reviewed the organizers application to use the park and have endorsed the event.

The festival will be held at Deering Oaks Park, Sunday, August 25, 2019, running 11am - 4pm. The festival features music and food centered around the stage area at the Oaks. Due to the numbers of people expected, Deering Oaks Park roadways will be closed to vehicles. Some of the park roadway will also need to be posted "No Parking." The Festival is held rain or shine.

The Festival Zone for this event includes: Deering Oaks Park - to include the Bandstand and grass areas surrounding the bandstand, the Ravine Water Play area, the Bowling Green grass area, and park roadways: Tennis Court Rd., King Court, Jenny Lane, and Farmers Market Rd.

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

Vehicles in violation of the “No Parking” signs in the Festival Zone shall be towed at owner’s expense.

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to organizers of the Pet Rock in the Park 2019 Festival for the use of the above-described area for said festival, subject to the following conditions:

City permit fees, license fees, and costs for city staff assistance will be paid by festival organizer;

Conditions for use of grounds, specified in a permit issued from Public Assembly Facilities Division shall be adhered to, and organizers shall leave on file security deposits for use of the park;

Festival organizer shall indemnify the City and hold it harmless from and against all claims arising out of activities during said Festival, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 per occurrence for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the “Pet Rock in the Park Festival” activities, and the City will be endorsed on the festival organizer's insurance policy;

Any and all public announcement (PA) and other speakers or amplifiers used to amplify music or other sound shall be maintained under 92dB’s and be configured by the event organizer and the City to focus volume away from residential housing, limiting any sound impacts in residential areas, and

Under no circumstances may alcoholic beverages be sold or consumed on the streets, park or public property of said area during said festival.

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

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Approval of Festival.

V. FINANCIAL IMPACT

Festival organizers pay a fee to the city to rent the park. Organizers also cover additional city costs and license fees.

VI. STAFF ANALYSIS AND BACKGROUND

VII. RECOMMENDATION

Recommend Passage.

VIII. LIST ATTACHMENTS

1. Pet Rock in the Park 2019
2. Pet Rock in the Park 2019 - Sun Aug 25 - AP

Prepared by:

Ted Musgrave

Date: 02/04/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (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 DECLARING AUGUST 25, 2019 AS
THE PET ROCK IN THE PARK 2019 FESTIVAL**

ORDERED, that Sunday, August 25, 2019 is hereby declared to be the Pet Rock in the Park 2019 Festival, sponsored by Portland Radio Group; and

BE IT FURTHER ORDERED, that the Pet Rock in the Park 2019 Festival area shall be the Deering Oaks Park bandstand and grass area around the bandstand, the grass and tree area between Tennis Court Road and Farmers Market Road, the Bowling Green grass area and the Ravine water play area, as well as Farmers Market Road, Jenny Lane, King Court and Tennis Court Road; and

BE IT FURTHER ORDERED, that Tennis Court Road shall be closed to traffic from 7:00 a.m. to 5:00 p.m. on August 25, 2019; and

BE IT FURTHER ORDERED, that vehicles in violation of the “no parking” signs in the Festival Area shall be towed at owner’s expense; and

BE IT FURTHER ORDERED, that the Pet Rock in the Park 2019 Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code; and

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

1. Portland Radio Group shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 per occurrence for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. Portland Radio Group shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the Festival area;

3. The Portland Radio Group shall be responsible for trash clean-up at the festival and shall be required to leave a security deposit on file at the Public Assembly Facilities Division office;
4. Conditions for use of grounds and requirements for food service, vending sales, and other items specified in a permit issued from the Public Assembly Facilities Division shall be adhered to;
5. Portland Radio Group shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the Pet Rock in the Park 2019 Festival;
6. Portland Radio Group shall pay city license fees, permit fees and costs for staff assistance;
7. Any and all public announcement and other speakers or amplifiers used to amplify music or other sound shall be maintained under 92dB's and be configured by the event organizer and the City to focus volume away from residential housing, limiting any sound impacts in residential areas; and
8. In addition, the Business Licensing Office shall charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival to those vendors the Portland Radio Group has agreed shall participate; and

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

CITY OF PORTLAND, PUBLIC ASSEMBLY FACILITIES DIVISION
PUBLIC PARK & SPACE APPLICATION (5 pages)
 212 Canco Rd. • Portland • ME • 04103 • (207) 808-5400 x0
 Jake O'Donal jodonald@portlandmaine.gov
 Ted Musgrave tvm@portlandmaine.gov



APPLICATION FEE \$25.00
PAYMENT MUST BE MADE WHEN SUBMITTING APPLICATION

(This is a transferable/non-refundable fee. If your event is permitted, the \$25.00 will be credited toward your permit fee.)

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

TODAY'S DATE		11/15/2018 Revised: 11-15		ORGANIZATION NAME		Portland Radio Group	
ADDRESS (Street/City/State/Zip)		420 Western Avenue South Portland, Maine 04106					
CONTACT NAME(S)		Jeff Pierce Mike Sambrook		TITLE(S)		Operations Manager Director of Sales	
PHONE	207-822-5609		PHONE	207-822-5603		PHONE	
EMAIL	jmpierce@portlandradiogroup.com		EMAIL	msambrook@portlandradiogroup.com		EMAIL	

PARK AREA / PUBLIC SPACE REQUESTED	Deering Oaks Bandstand and interior roads		
EVENT DAY(S) & DATE(S)	Sunday Aug 25, 2019	RAIN DAY(S) & DATE(S) (50% added fee)	no
OVERALL EVENT START & END TIME (When setup will begin until cleanup is expected to be complete.)	7:00am 5pm	EVENT START & END TIME	Event runs 11am – 4pm

EVENT NAME	EXPECTED ATTENDANCE
Pet Rock in the Park 2019 (8 th annual)	3,500 over the course of the day

DESCRIPTION OF EVENT: An all-day music festival to benefit various domestic animal charities

Pet Rock in the Park will feature live bands playing classic rock style hit music to bring together a crowd for the purpose of raising funds for an animal-related charity - Emma's Foundation for Canine Cancer. This event combines music and pet lovers. No admission charge to the event. Local animal shelters will be invited to take part in the event, and local pet-related businesses will have the opportunity to have vendor booths as well.

Canopies will be set up on the roadway used for Farmer's Market on Saturdays. NO LARGE TENTS.

Food vendors will also be invited to sell food/drinks to the participants. **Pizza By Fire, Mainely Burgers, Mainely Treats, Love Kupcakes, Taco del Seoul** - BBQ Grills may be used for cooking.

Tables and chairs set up on the grass areas.

Moon bounce for kids on grass or tar.

Wagon Rides will be offered to attendees. Route: pickup in the park, Tennis Court Rd, State St Ext, Park Ave. Deering Ave. back into entrance at Oaks, Tennis Court Rd back to near Bandstand area.

Bands on the stage/bandstand – electricity needed: from Stage..... as well as Green Box near Gate.

PA Sound Company: AV Tech. When the microphone/stage is not being used to entertain with music, it will be used to bring attention to different animal-care related topics (adoptions, spay/neuter, training, etc.)

Bands include: Time Pilots, Girls Just Want to Have Fun, substitutes.

Tennis Court Road closed to traffic at 7am (barricades needed) – Volunteers will staff. Road to open back up at 5pm.

Some parking spaces need to be reserved on TC Road. (30 NP signs needed)

A Dumpster will be rented (Troiano Waste) and 5 Porta-Restrooms Rented

(placed on TC Road – **NOT near TIQA – just stay at least 75 feet from TIQA**).
 (if arriving early – day before – they will NOT be placed on FM Road or anywhere near that entrance)
 TIQA Patrons and Parking: (10 spots in DIRT LOT set aside TIQA patrons)

From 2018 review of event: **City Staff need to be hired by organizer, to include a city EM (event manager), as well as possible city event staff – day of event.**

IS THERE A REGISTRATION FEE/PLEDGES COLLECTED FOR THIS EVENT?	Please check: <u> </u> N/A <u> </u> FEE <u> </u> N/A <u> </u> PLEDGES	
IF YES FOR FEES, HOW MUCH?	FEE	\$N/A
	STUDENT FEE	\$N/A

WHAT WILL BE THE ANTICIPATED NEED FOR PARKING AND WHAT IS YOUR PARKING PLAN? *reserved spaces for station vehicles & band vehicles.*

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

	X-YES	X-NO	X-NOT SURE
* Are you setting up a canopy(s) ? (canopy is 10x10 size) How many:	X		
* Do you wish to set up a tent(s) and/or stage(s) ? A canopy/tent or stage larger than 10'x10' needs to be approved by PAFD and a Temporary Tent or Stage Permit issued by Permitting & Inspections. For permit application, please go to: http://portlandmaine.gov/DocumentCenter/Home/View/2317 or contact the Permitting and Inspections Department at buildinginspections@portlandmaine.gov or 874-8703 for more information. PLEASE apply at least 2-weeks before your event. Tent/Stage Size(s): Exact Location(s) of Tent/Stage Placement Requested: *** In order to drive tent stakes into the ground, DIG SAFE must be contacted: 888-344-7233. ***		X	
* Will you be setting up tables and/or chairs ? How many tables: chairs:		X	
* Are other items or equipment being placed on City property? (i.e. Moon Bounce, Dunk Tank, Radio Station Van, Helium Tank, etc.) Please List:	X		
* Will there be refreshments at the event? Do you wish to sell food ? (If so, you will need approval from PAFD and possibly a Temporary Food Service License from Business Licensing Office) List food and drink / Food Trucks, etc.: Pizza By Fire, Mainely Burgers, Mainely Treats, Love Kupcakes, Taco del Seoul PLEASE NOTE: A Temporary Food Service License is NOT needed when: 1. Food Vendors have a current City of Portland Food License 2. Just pre-packaged refreshments, or food & drink items are purchased or donated from a licensed establishment 3. Bottled water / water is served PLEASE give the BL Office at least a 2-week notice (874-8557). A TFSL is needed when food vendors are not licensed, or when food is being prepared and cooked at the event.	X		
* Do you wish to sell non-food items (like T-shirts, crafts, cd's, etc.)? If so, you will need approval from PAFD Office, and you will need to apply for a Street Goods Vendor License(s) at the Business Licensing Office (874-8557) – 2 week notice. List items you wish to sell: Certain vendors will sell "pet related" items.	X		
* Are you setting up a PA (sound) system ? Are you planning on having Amplified Music ? Y Band ? Y DJ ? Y Boom Box ? N If so, your event may require a concert license. PAFD will advise upon review of your application. Amplified speech (i.e. Press Conference) does not require the license, however, a Sound Security Deposit may be required. There are time restrictions for amplified music/speech in Downtown Parks & Squares: limited to 11:45am – 1:15pm and 1 hour between 5pm - 8pm.	X		
* Will your event require electricity ? Electricity is available at some of the parks & squares (Deering Oaks Park, Monument Square, Congress Square, Tommy's Park, Post Office Park, Payson Park, Preble Street Grass Area, Eastern Prom, Fort Allen Park, Lincoln Park). Elec. at these areas is turned off and needs to be turned on by City staff. There is a flat \$40 fee for this service and use of electricity.	X		
* Are you planning on bringing a Grill for a Barbecue ? Only Gas Grills are allowed in the parks (NO CHARCOAL). Grilling is subject to weather conditions and possibly Fire Dept. review.	X		
* Will the event require reserved parking spaces / parking meters ? How many? "No Parking" signs may be purchased at PAFD Office, 212 Canco Rd.	X		
* Will your event need safety vests, signs, barricades and/or cones ? Please list what you would like to borrow/rent: A few orange vests and cones (as well as barricades) may usually be borrowed/rented from	X		

	PAFD Office. (Delivery available as well – for an extra fee)			
*	Will your event require street closures ? (Please be specific under "Description of Event") Will your event affect METRO BUS ROUTES ? no	X PARK ROAD		
*	Will your event require Police assistance? An event such as a road race, march or parade in the street, would typically require police assistance. To hire a Police Officer(s) to be present at your event, you will need to reserve and hire that officer. Please call Sgt. Nevins (874-8554) or Police Shift Command (874-8855/8556) well in advance to arrange.		X	
*	Will your event require Fire/EMS assistance? (For a large walk/race, it is recommended.) If you would like to inquire about hiring city Fire/EMS staff to be on site, please email fireprevention@portlandmaine.gov well in advance of the event. For general questions, you may also call (207) 874-8400.		X	
*	Will your event require Parking Control assistance? To hire a Parking Control Officer(s) to be present at your event, you will need to reserve and hire that officer. Please call 874-8910 well in advance to arrange.		X	
Fees for Police, Fire/EMS or Parking Control Staff will be invoiced by those individual departments & should be paid to them directly.				
*	Will your event require porta-restroom rental(s) or need existing porta-restrooms cleaned? (Some of the parks already have porta-restrooms. Event participants may use these, but a \$25 fee is assessed for events where attendance is 150 or more.) Porta-restrooms may be rented from any of the local companies. Units currently on site are through Associated.	X		

INSURANCE CERTIFICATE INFORMATION

*	Will your event require liability Insurance? (Commercial liability insurance is required for a walkathon, race, festival, press conference, concert, etc. Product liability insurance is also required if the event has been approved for serving food.)	X NEED		
♦ If you answered YES, you shall procure and maintain occurrence-based Commercial General Liability and Product Liability Insurance, when required, in an amount not less than Four Hundred Thousand Dollars (\$400,000.00) per occurrence for bodily injury, death and property damage. You shall name the City of Portland as an additional insured or shall obtain a general liability extension endorsement, for coverage only in those areas where government immunity has been expressly waived by 14 M.R.S. A. § 8104-A, as limited by § 8104-B, and § 8111. The terms of this permit and the insurance coverage shall not be deemed a waiver of any defenses, immunities or limitations of liability or damages available to the CITY under the Maine Tort Claims Act, other Maine statutory law, judicial precedent, common law, or any other defenses, immunities or limitations of liability available to the City. You shall also be responsible for any and all deductibles and/or self-insured retentions. ♦ Both the Certificate of Insurance and Additional Insured Endorsement shall be sent to jodonald@portlandmaine.gov and must state that the policy is endorsed to name the City of Portland as an additional insured pursuant to the date of the event (and rain date).				

PUBLIC ASSEMBLY FACILITIES DIVISION POLICIES

ELECTRICITY

All cords in the public way must be covered by rugs, mats or orange cones to avoid public hazard. If weather is inclement (drizzle, rain, snow, etc.) we require that you **not use** electricity, unless all connections and equipment are covered and protected from the elements. If a generator is used, please take all necessary measures to ensure safe operation. Bring a fire extinguisher, set generator up away from activities (and combustibles), store fuel source away from the generator and keep children away from the generator.

BARBECUES - GAS GRILLS ONLY

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

PORTA-RESTROOMS / BATHROOM FACILITIES

Porta-Restrooms are required for large events and events where food is being served. Some of Portland's parks already have portable restrooms from Associate Septic on site (*Preble Street Grass Area at the Preble Street Parking Lot – across from Hannaford's, *Entrance to Dyer's Flat – beside Payson Park, *Deering Oaks Park – Playground + Ravine, *East End Beach). Winter & Early Spring: Just EEB. If over 150 people are expected to attend the event, a \$25 user fee is required (paid to PAFD). If extra units are rented by organizer, then no additional user fee is assessed. Restrooms are cleaned M, W, & F. If you would like to guarantee that they are cleaned just prior to your event, then you need to call the porta-restroom company (Associated Septic / Royal Flush, 207-799-1980, M-F) to request and pay for a cleaning. If renting units, organizer has the option of renting from Associated Septic / Royal Flush, or from other local companies.

TRASH

All groups must abide by our Carry In/ Carry Out Policy. Please bring extra trash bags and/or trash receptacles and remove all trash. Do not use existing trash barrels or the metal liners inside. You will need to haul all of your trash out of the park/public space or forfeit the security deposit(s). Please recycle whenever possible, (please do not use Styrofoam - it is NOT recyclable). The area will be checked following your event; if park is clean and conditions for use adhered to, your security deposit will be returned to you. Thank you in advance!

MARKING OF GROUNDS

Please DO NOT mark city property in any permanent way.
DO NOT use SPRAY PAINT or SPRAY CHALK. DO NOT STAPLE or NAIL anything to trees.
Children's Art Chalk can be used on hardscape areas with permission from PAFD Office. Tape may also be used.
If markings remain for more than a few rain storms, event organizers are responsible for removing them.
If city staff or contractors need to remove the markings, event organizers are responsible for the cost of staff time and materials.

You may also pound stakes into the grass areas bordering the trail/race route (when applicable).

USE OF CANDLES

It is preferred that LED lighted candles or glow sticks are used. For use of flammable candles, please make sure all candles have drip protectors to prevent wax from dripping on any hardscape surfaces, potentially causing permanent stains/damage. Please make sure all candles are extinguished before they are thrown away. Please make sure to collect spent candles so there is no trash left behind. Please make sure safety precautions are taken: bring a fire extinguisher, gallon of water, etc. in case of fire.

ADA COMPLIANCE

Event organizer must comply with the Americans with Disabilities Act (ADA) and the Maine Human Rights Act (MHRA), including maintaining the permitted use area and all public rights-of-way accessible during the entirety of the permitted event. In the event the permitted area is rendered inaccessible to disabled persons, and/or by request of PAFD staff, the organizer shall act immediately to provide accessibility. All requests to provide interpretive services shall be the responsibility of the organizer to provide and pay for such services. The organizer shall defend, indemnify, and hold the City harmless from any and all liability and damages resulting from alleged violations of the ADA and/or MHRA.

PARKING ON GRASS AREAS / SIDEWALKS / ILLEGALLY PARKED VEHICLES

PAFD has a strict policy that prohibits vehicles from parking on grass areas/sidewalks/park streets (unless specifically approved by city staff). \$20 will be deducted from your security deposit for each vehicle parked on grass/sidewalk areas or vehicles parked illegally. **Any tire ruts/damage to the grass areas would mean a forfeit of your security deposits.** If the deposit on file is insufficient to cover the cost of fees/damages, the organizer will be invoiced for any balance due.

RESERVED PARKING

To reserve parking for your event, please contact the PAFD Office (808-5400 x0). Staff will review your request and can issue you "No Parking" signs (\$20 each). You will need to label signs and tape them to meters or signposts AT LEAST 24 hours prior to your event. Please do not cover up coin slots on meters. If the reserved parking area has no actual parking meters, you may need to tape signs to orange cones, and place those out on the sidewalk beside the street. The PAFD Office has cones it can rent (\$2/cone rental + \$15/cone security dep. required). To get authorization to have vehicles (illegally parked at signs you've posted) towed, please complete and fax/email/hand deliver to city departments a "No Parking Authorization Form," which you can get from staff when you pick up NP signs. If "No Parking" signs are provided at no charge (1st Amendment Events, Public School Events, etc.), signs may be posted as a courtesy, but towing will not be enforced. Please make sure signs are removed once the event is complete.

ALCOHOL / SMOKE-FREE ZONES

By city ordinance, smoking a cigar, cigarette, pipe, electronic cigarette, electronic cigar, electronic pipe, or other similar product that relies on vaporization or aerosolization, is prohibited at and within 20 feet of the following outdoor recreation and event areas: downtown squares and plazas, trails, parks, playgrounds, beaches, and athletic facilities. Consumption of alcohol is prohibited in public spaces. Please make sure you pass this information along to participants / attendees.

AMPLIFIED SOUND POLICY

Permission to have a PA system at an event does equate to permission to create a noise disturbance. If the Police Dept./City Staff receive noise complaints, they will respond accordingly. Please set the PA System up so that speakers are facing away from businesses/residences. Please keep volume levels low out of consideration for nearby residents and businesses. The Permittee shall not allow the sound emanating from the event to exceed an A-weighted 92 decibels. One verbal warning shall be issued if the sound has been found to have exceeded 92 decibels. The warning may be given to the sound board operator or the organizer/organizer's designee. If the 92 decibel limit is found to have been exceeded a second time during the same event, the single event concert permit (or permission to use a bullhorn/PA system) shall be immediately suspended, the PA system / amplification / bullhorn turned off, and the sound security deposit forfeited.

CANCELLATION POLICY

Event must be cancelled with PAFD prior to its start in order to be eligible for a refund. If cancelled within 2 weeks of scheduled event date, a \$75 cancellation fee may be charged.

NOTIFICATION

Please keep a copy of this permit on site at all times. City staff may require proof of permit. If there are members of the public in your reserved space upon arrival, please present your permit as proof of reservation & approved usage. If you need assistance, please contact the Police Department at (207) 874-8574. Please ask Portland newspapers to run an article alerting the public to the event. You may put up temporary A-frame signs to alert the public to your event or place signage on orange cones, etc. Signs are to be up DAY OF EVENT ONLY. Please remove all signage immediately following the event. Please call Portland Police Dept. (874-8574) on the day of your event to remind them it is taking place. Please notify any nearby businesses, including restaurants that may have tables out for dining, to alert them to your event.

REVOCABLE PERMIT

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

I HAVE READ AND UNDERSTAND ALL OF THE ABOVE POLICIES

TYPE INITIALS

JP

DATE

11/15/18

ASSUMPTION OF RISK & LIABILITY

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

I have read the Assumption of Risk & Liability Agreement

TYPE INITIALS

JP

DATE

11/15/18

FEE SCHEDULE – UPDATED JULY 1, 2018

Fees are tiered and assigned based on the level of demand placed on City resources and impact on City infrastructure.

Simple Event (no registration fee): \$75/hour	Electricity (activation/de-activation) Fee: \$40/flat
Event with registration or pledges & attendance 25 - 300: \$125/hr	Porta Restroom User Fee (if attendance is 150+): \$25
Event with registration or pledges & attendance 301+: \$225/hr	Single Concert License: \$38
Public Space/Park Security Deposit: \$100 - \$1000	Barricades: \$5/ea. Rental Fee + \$25/ea. Security Deposit
Sound Security Deposit: \$100 - \$1,000	Bike Racks: \$10/ea. Rental Fee + \$25/ea. Security Deposit
Impact/Street Closure Fee (variable based on impact): \$100-\$500	Flashing Lights: \$10/ea. Rental Fee + \$40/ea. Security Deposit
Staff Fee (on site event support): \$37/hour	Cones: \$2/ea. Rental Fee + \$15/ea. Security Deposit
Administrative Fee (event coordination support): \$40/hour or more	Safety Vests: \$15/ea. Security Deposit
"No Parking" Signs: \$1 / \$20 each	Keys: \$50/ea. Security Deposit
Cancellation Fee: \$75	Equipment Delivery Fee: \$100

PLEASE MAKE CHECKS PAYABLE TO "CITY OF PORTLAND"

- ◆ Please make out security deposit checks separate from permit fees.

TOTAL AMOUNT(S) DUE TO PUBLIC ASSEMBLY FACILITIES DIVISION (Please make all security deposit checks out separately)

Permit Fee for use of area:	\$ 2,250.00	Single Concert (Amplified Sound) License Fee:	\$ 38.00 due
Number of Hours of Use: Approx. 10 hours		Equipment Rental/Delivery Fee:	\$ 130.00
Staff Fee (on site event support):	\$ 565.00	Public Space / Park / Sound Security Deposit:	\$ 250 due
Admin. Fee (event coordination support):	\$ TBD	Borrowed / Rented Equipment Deposit:	\$ TBD
Electricity Fee (activation/de-activation):	\$ 40.00	Additional Fees:	\$ 20.00
Impact/Street Closure Fee (variable based on impact):	\$ 100.00	(Porta-Restroom User Fee, "No Parking" Signs, etc.)	
Total Event Balance (Includes Application fee & Security Deposit amount)			\$ 3,168.00

FOR OFFICE USE ONLY

APPLICATION FEE:	\$ 25.00	PERMIT FEE:	\$ 2,250.00	SECURITY DEPOSIT:	\$ 250.00	INSURANCE NEEDED?	Need
DATE RECEIVED:	12/13/18	DATE RECEIVED:		DATE RECEIVED:		DATE RECEIVED:	

PAYMENT TYPE

VISA / MC NUMBER:		CHECK NUMBER:		CHECK AMOUNT:	\$	CASH AMOUNT:	\$
CREDIT CARD AMOUNT:	\$	CREDIT CARD EXP. DATE:		CHECK NUMBER:		CHECK AMOUNT:	\$

CREDIT CARD WILL ONLY BE CHARGED FOR SECURITY DEPOSIT(S) AS NEEDED

PLEASE RETURN FORM (WORD DOC) AT LEAST 30 DAYS IN ADVANCE TO: (PLEASE EMAIL APPLICATION IN)

- ◆ Public Assembly Facilities Div. ~ 212 Canco Rd. ~ Portland ~ ME ~ 04103 email preferred: jodonal@portlandmaine.gov

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 12, 2019

SUBJECT: Order 167-18/19 Granting Municipal Officers' Approval of Black Tie Inc. dba Black Tie Company @PMA Application for a Class I FSE at 7 Congress Square - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

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

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Black Tie Inc. dba Black Tie Company @PMA. Application for a Class I FSE at 7 Congress Square.

Application was filed on 2/8/2019. New City and State applications. Change of ownership of an existing business.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Black Tie Company.docx
2. 20190212103045265

Prepared by:

Date: 02/12/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

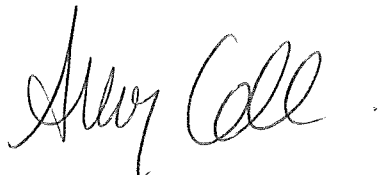
KIMBERLY M. COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

Black Tie Inc. dba Black Tie Company @PMA. Application for a Class I FSE at 7 Congress Square.

To Mayor Strimling and members of the City Council,
It is my intent to continue to operate The Black Tie Company as it has operated since it was incorporated in 1988. I will run all of our Portland based locations as they currently operate and will continue to provide great food and fantastic food service to our loyal customers.

Sincerely,
Amy Collins


2/7/19

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department

Michael A. Russell, MS, Director

389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557

www.portlandmaine.gov

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	Black Tie Company @ PMIA Phone: 207-761-6665
Location Address:	7 Congress Square Pld, ME. Zip: 04101
If new, what was formerly at this location:	
Mailing Address:	275 Main St Yarmouth, ME. Zip: 04096
Contact Person:	Amy Collins Phone: 207-239-0889
Contact Person Email:	amycollins@theblacktieco.com
Manager of Establishment:	Deb Criden Date of Birth: Phone: 207-671-8146
Owner of Premises (Landlord):	The Portland Museum of Art
Address of Premises Owner:	7 Congress Sq. Pld, ME. Zip: 04101

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

Name of Owner(s)	Date of Birth	Residence Address
Amy Collins	5/12/81	275 Main St. Yarmouth, ME 04096

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

Corporate Name		Corporate Mailing Address	
Black Tie Inc.		275 Main St. Yarmouth, ME Zip: 04096	
Contact Person:	Amy Collins	Phone:	207-239-0889
Principal Officers	Title	Date of Birth	Residence Address
Amy Collins	owner	5/12/81	275 Main St. Yarmouth, ME 04096

About Your Establishment

Class of Liquor License:	Class I - class A restaurant - malt, liquor, wine + spirits	
Type of food served:	Sandwiches, salads + soups.	
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor	
Projected percentage of sales:	Generated from Food: 90%	Generated from Alcohol: 10%
Hours & days of operation:	Winter Wed 10a-6p Thurs-Fri-10a-8p Sat+Sun-10a-6p Summer Mon-Wed-10a-6p Thurs-Fri-10a-8p Sat+Sun-10a-6p	

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

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

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

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature Amy Collins Title Owner Date 2/6/19

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

BUREAU OF ALCOHOL BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008 (Regular Mail)
10 WATER STREET, HALLOWELL, ME 04347 (Overnight Mail)
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINELIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	
Good SOS & DBA: YES ☐ NO ☐	

PRESENT LICENSE EXPIRES: _____

NEW application: ☒ Yes ☐ No

If business is NEW or under new ownership, indicate starting date: ~~1/1/19~~ 4/1/19

Requested inspection (New Licensees/ Ownership Changes Only) Date : 3/11/19 - 3/15/19 Business hours: 10:00 - 10:00 PM

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

- ☒ RESTAURANT (Class I,II,III,IV) ☐ RESTAURANT/LOUNGE (Class XI) ☐ CLASS A LOUNGE (Class X)
☐ HOTEL (Class I,II,III,IV) ☐ HOTEL, FOOD OPTIONAL (Class I-A) ☐ BED & BREAKFAST (Class V)
☐ GOLF COURSE (Class I,II,III,IV) ☐ TAVERN (Class IV) ☐ QUALIFIED CATERING
☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: Black Tie Inc.	Business Name (D/B/A) The Black Tie Company at The PMA
APPLICANT(S) -(Sole Proprietor) Amy Collins DOB: 5/12/81	Physical Location: 7 Congress Sq.
DOB:	City/Town Portland State Maine Zip Code 04101
Address 275 Main St.	Mailing Address 275 Main St.
City/Town Yarmouth State Maine Zip Code 04096	City/Town Yarmouth State Maine Zip Code 04096
Telephone Number 207.761.6665 Fax Number	Business Telephone Number 207.761.6665
Federal I.D. # 01-044597	Seller Certificate #: 1186905 or Sales Tax #:
Email Address: amycollins@theblacktieco.com Please Print	Website: www.theblacktieco.com

1. If premise is a Hotel or Bed & Breakfast, indicate number of rooms available for transient guests: _____

2. State amount of gross income from period of last license:

ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

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

If Yes, please complete the Corporate Information required for Business Entities who are licensees.

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

5. Do you own or have any interest in any another Maine Liquor License? ☒ Yes ☐ No (Use an additional sheet(s) if necessary.) If yes, please list License Number, Name, and physical location of any other Maine Liquor Licenses.

RET-2007-282 Union Kitchen

License #

Name of Business

1 Union Wharf Portland, ME. 04101

QCS-2012-5513 Black Tie Company (Use an additional sheet(s) if necessary.)

License #

Name of Business

353 Pine Point Rd. Scarborough, ME.

Physical Location

City / Town

QCS-2001-5203 Black Tie Company at Pineland Farms (Use an additional sheet(s) if necessary.)

License #

Name of Business

59 Farm View Dr. New Gloucester, ME.

Physical Location

City / Town

QCS-2010-7686 Black Tie at Camp Hammond (Use an additional sheet(s) if necessary.)

License #

Name of Business

275 Main St. Yarmouth, ME.

Physical Location

City / Town

6. If manager is to be employed, give name: Deb Criden

7. Business records are located at: 156 State St. Portland, ME.

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

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

10. List name, date of birth, and place of birth for all applicants, managers, and bar managers.

Full Name (Please Print)	DOB	Place of Birth
Amy L. Collins	5/12/81	New York
11. Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Name Amy	City: Yarmouth	State: Me.
Name:	City:	State:
Name:	City:	State:

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____ (use additional sheet(s) if necessary)

13. Will any law enforcement official benefit directly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

15. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: The Portland Museum of Art 7 Congress Sq. Portland, ME. 04101

16. Describe in detail the premises to be licensed: **(On Premise Diagram Required)** Café space, lower ground floor, and the great hall

17. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ NO ☒ Applied for: Yes on 2/8/19

18. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? Less than 1 mile

Which of the above is nearest? Church

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

If YES, give details: _____

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

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

Dated at: Portland on 2/8, 20 19
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

Signature of Applicant or Corporate Officer(s)

Print Name

Print Name

FEE SCHEDULE

FILING FEE: (must be included on all applications) \$ **10.00**

Class I Spirituous, Vinous and Malt \$ **900.00**
CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.

Class I-A Spirituous, Vinous and Malt, Optional Food (Hotels Only) \$1,100.00
CLASS I-A: Hotels only that do not serve three meals a day.

Class II Spirituous Only \$ 550.00
CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.

Class III Vinous Only \$ 220.00
CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.



Division of Alcoholic Beverages and Lottery
Operations
Division of Liquor Licensing and Enforcement

**Corporate Information Required for
Business Entities Who Are Licensees**

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752.

Please clearly complete this form in its entirety.

- Exact legal name: **Black Tie Inc.**
- Doing Business As, if any: **The Black Tie Company at the PMA**
- Date of filing with Secretary of State: **1988** State in which you are formed: **ME.**
- If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
- List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attach additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
Amy Collins	275 Main St. Yarmouth, ---	05/12/8	Owner	100%

(Stock ownership in non-publicly traded companies must add up to 100%.)

- If Co-Op # of members: _____ (list primary officers in the above boxes)

7. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States? ☐ Yes ☒ No

8. If Yes to Question 8, please complete the following: (attached additional sheets as needed)

Name: _____

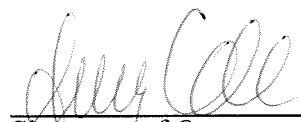
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

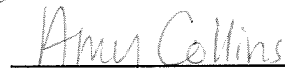
Disposition: _____

Signature:



Signature of Owner or Corporate Officer

2/9/19
Date



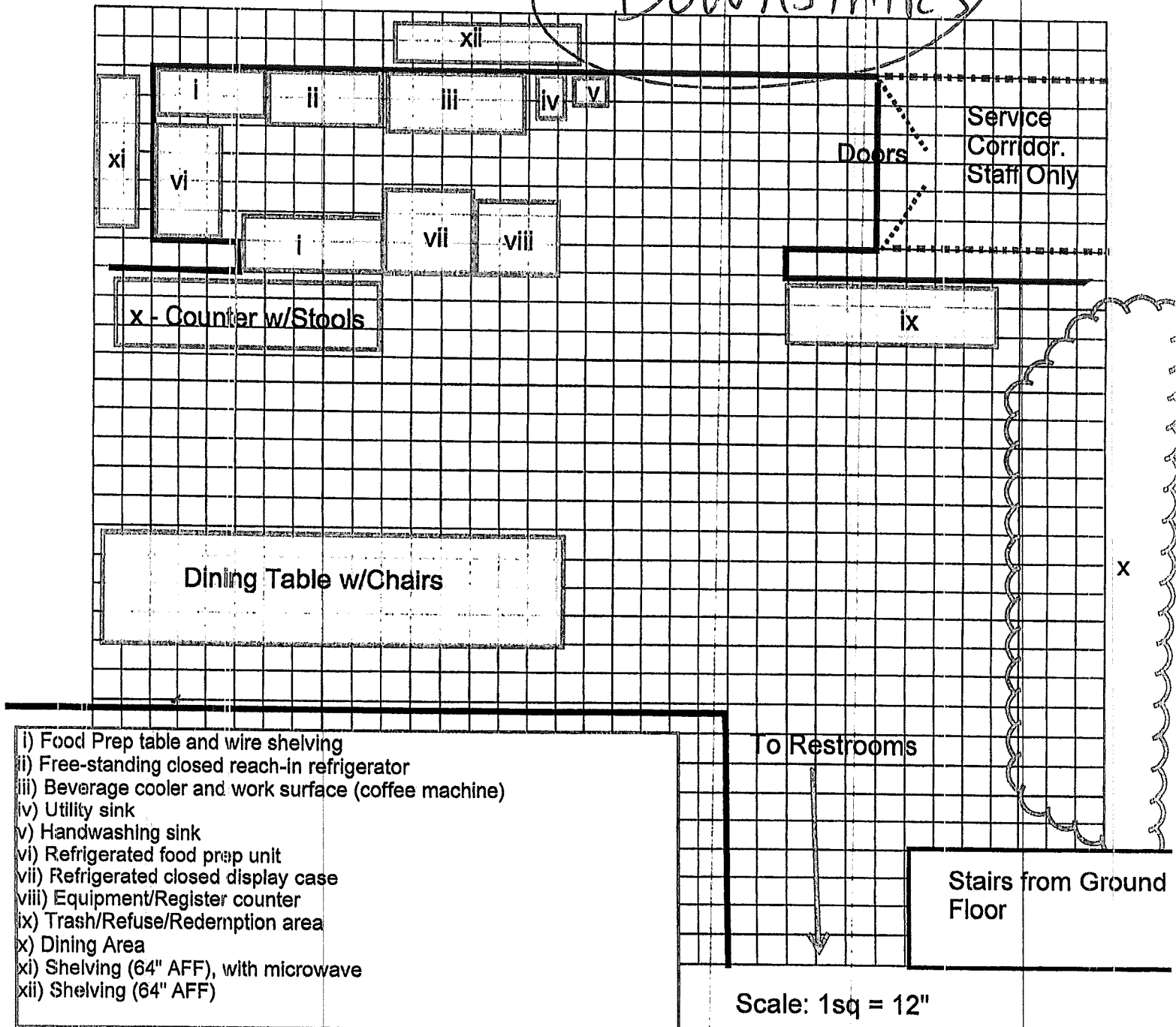
Print Name of Owner or Corporate Officer

Submit Completed Forms to:

Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

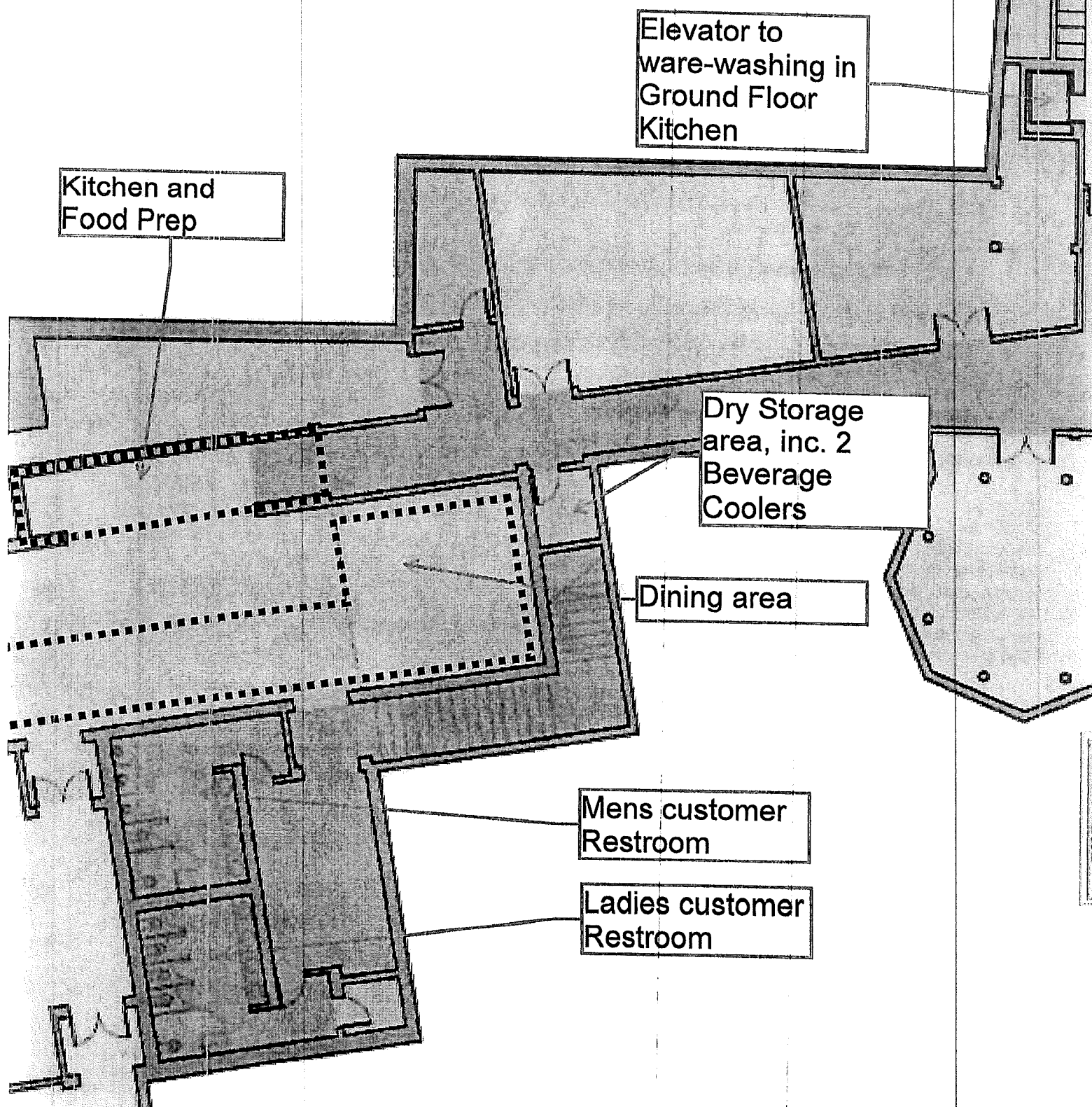
9. Kitchen or Food Preparation Area Plan:

Use this grid or a separate sheet of graph paper to draw a floor plan, or provide a floor plan prepared by a knowledgeable party, for eating place food preparation area(s)/kitchen(s). If the plan is not drawn to scale, the dimensions must be clearly labeled. Please see the example on page 11.



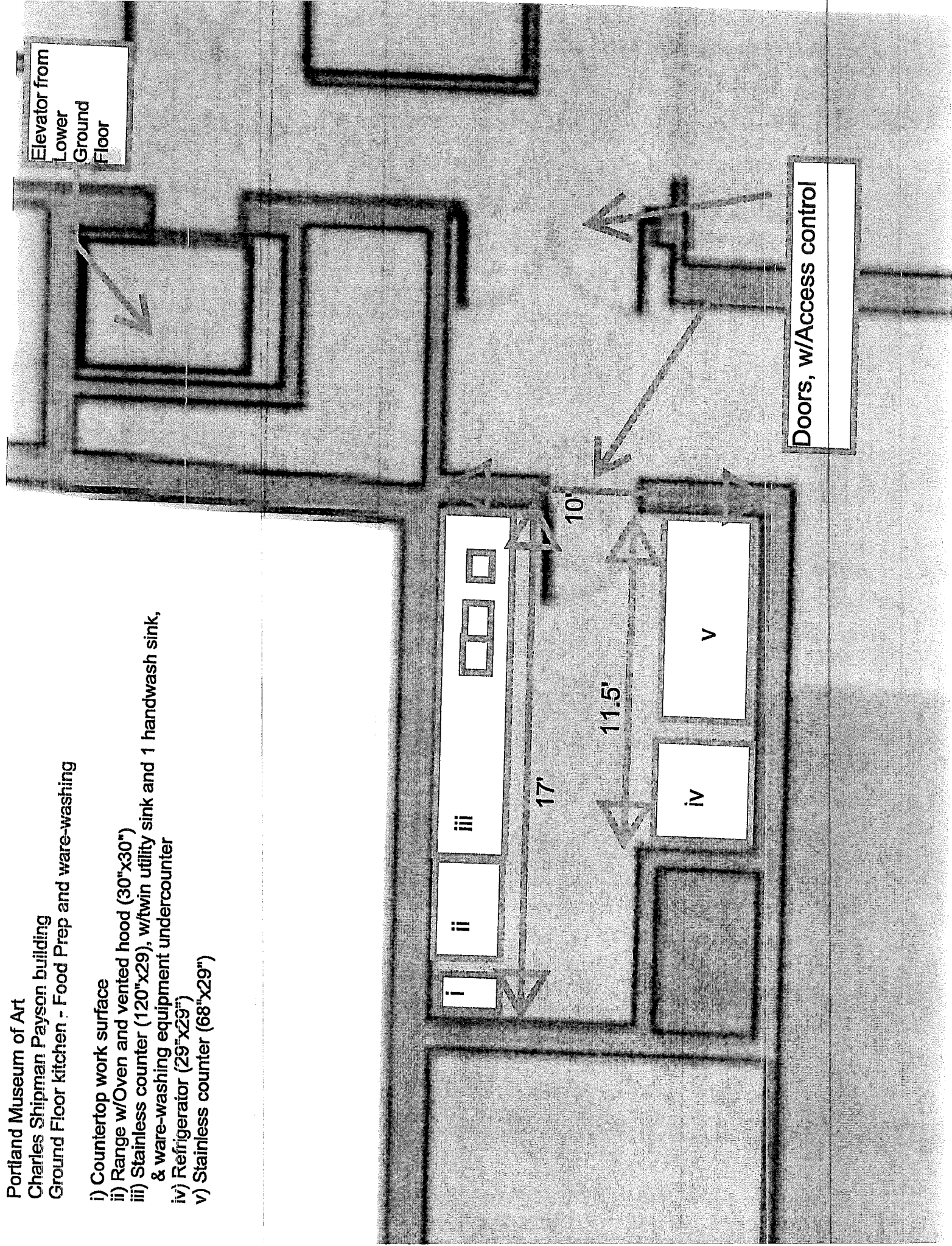
Sinks:	Toilet Facilities:	Refrigeration:	Facilities:
1. Hand Washing	1. Water Closets	1. Walk-in Coolers	1. Food Preparation Areas
2. Ware Washing	2. Lavatories	2. Walk-in Freezers	2. Food Storage Areas
3. Utility	3. Urinals	3. Freestanding Coolers	3. Trash/Refuse/Redemption Areas
4. Food Prep	4. Other	4. Freestanding Freezers	4. Dining Areas
5. Dipper Wells		5. Ice Maker	5. Equipment/Counters/Seats/Tables
6. Other		6. Other	6. Dry Storage/All Other Storage

Portland Museum of Art
Charles Shipman Payson Building
Lower Ground Floor
Cafe and facilities layout



Portland Museum of Art
Charles Shipman Payson building
Ground Floor kitchen - Food Prep and ware-washing

- i) Countertop work surface
- ii) Range w/Oven and vented hood (30"x30")
- iii) Stainless counter (120"x29), w/twin utility sink and 1 handwash sink, & ware-washing equipment undercounter
- iv) Refrigerator (29"x29")
- v) Stainless counter (68"x29")



portland museum of art café

sample menu ideas

starters and small plates

greek yogurt parfait • house-made granola • greek yogurt • fresh fruit •
drizzle of mead's honey 6.5

artisan cheese plate • chef choice of 3 cheeses accompanied with fig jam
• dried fruit • candied nuts • honey • crostini • grilled bread or crackers •
for one 12.5 • for two 19.5

mediterranean plate • hummus • grilled vegetable tapenade • marinated olives
• feta • house flatbread • rustic bread • for one 12.5 • for two 19.5

local ricotta • fig jam • crostini 6.5

smoked salmon rillettes • pickled shallots • whole grain mustard • crostini 12.5

soups

served with house biscuit or cornbread

yellow and golden gazpacho 4.5/6.5

maine haddock chowder 5.5/6.5

spicy corn and crab chowder 5.5/6.5

chilled lemon basil avocado 5.5/6.5

kale, tomato and white bean 4.5/6.5

the
black tie
company

portland museum of art café

sample menu ideas

grain bowls

quinoa bowl • chicken • avocado cream • black beans • corn • pepitas • sour cream •
tortilla • lime 12.5

teriyaki-scallion salmon wild rice • blended with chopped fresh spinach asparagus
• red onions • wasabi peas • mint • coriander • lemon vinaigrette 14.5

salads

served with house biscuit or cornbread

golden beet salad • citrus • radish • field greens • pine nuts • blue cheese 10

mixed greens salad • apple • cranberry • pepitas • cider vinaigrette 7

classic cobb salad • bacon • corn • avocado • blue cheese • tomato • grilled chicken 10

panzanella salad • grilled crostini • summer tomato • ricotta 8

classic caesar salad 7

with grilled chicken 10

with grilled salmon 13

the
black tie
company

portland museum of art café

sample menu ideas

sandwiches

served with vintage maine kitchen potato chips

heirloom blt 7.5 • thick-sliced pecan-smoked bacon • heirloom tomatoes •
house-made garlic aioli • baby butter lettuce • toasted sourdough bread

pma café chicken salad 8.5 • toasted pecans • green grapes • celery • mayo • red onions •
lettuce • tomato • brioche bun

smoked pork bahn mi 8.5 • chilled marinated vegetables • cucumber • shredded lettuce •
fresh herbs • sweet chili mayo • baguette

turkey & melted brie 8.5 • sliced granny smith apples • chipotle mayonnaise • whole grain

white bean hummus veggie wrap 7.5 • tomato • roasted red bell pepper • grilled onions •
pepitas • smoked gouda • romaine • chipotle tortilla

look for our daily half sandwich with soup or salad special

for kids

served with vintage maine kitchen potato chips

grilled cheese 5

grilled chicken fingers 6

pb&j 5

mac & cheese 6

the
black tie
company

portland museum of art café

sample menu ideas

sweets

raspberry blondies 3

classic cookies 3

chocolate chip walnut • oatmeal raisin • triple chocolate

macarons 3

pumpkin ginger whoope pies 4

pie of the day 5

homemade toasted pop tarts 4

always black tie cupcakes 3

fresh fruit • chips • homemade granola bars • and more always available

whipped cream and ice cream available for additional 1/2.5

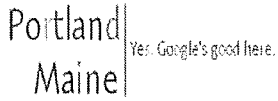
beverages

iced nitro brew coffee • iced and hot coffees • teas • full espresso bar provided
by coffee by design 3-5.5 • maine root handcrafted sodas • green bee sodas •
poland spring • traditional brand drinks 2-4

full licensed and insured bar service providing locally brewed
micro beer plus national and global favorites • maine grown and produced
premier wines plus national and global favorites 6-12

the
black tie
company

cocktails available for evening events when café is
operating • local distilleries offered plus
national and global favorites 6-12



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Black Tie Company

Kevin Cashman <kevindc@portlandmaine.gov>

Sat, Feb 9, 2019 at 5:08 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>

PD has no objections.

Kevin C.

On Fri, Feb 8, 2019 at 9:27 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application. This will go before council on 3/4/2018. This is a change of ownership of an existing business. Thanks Jessica

Jessica Blais Hanscombe
Licensing and Registration Coordinator
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Lt. Kevin Cashman
Portland Police Department
Patrol Division
109 Middle St
Portland, Maine 04101
(O) 207-756-8294
kevindc@portlandmaine.gov.
Hours - Saturday thru Tuesday (4pm-2am)



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

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D877799

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-08) :

Inquiries Name(s) **AMY COLLINS (1981-05-12)**

NO MATCH WAS FOUND FOR YOUR REQUEST.



Permitting and Inspections Department
Michael A. Russell, MS, Director

February 12, 2019

Black Tie Inc
275 Main Street
Yarmouth ME 04096

Re: Black Tie Inc. dba Black Tie Company @PMA. Application for a Class I FSE at 7 Congress Square.

Dear Amy Collins

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 4, 2019 at 5:30 p.m.**, for the review of application for a Class I FSE at 7 Congress Square. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 4, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Black Tie Inc. dba Black Tie Company @PMA. Application for a Class I FSE at 7 Congress Square. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 12, 2019

SUBJECT: Order 168-18/19 Granting Municipal Officers' Approval of General Gardens LLC dba Flood's Application for a Class I FSE at 747 Congress Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

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

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

General Gardens LLC dba Flood's. Application for a Class I FSE at 747 Congress Street.

Application was filed on 2/5/2019. New City and State applications. Location was previously Bolster, Snow & Co.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Floods.docx
2. 20190212103531337

Prepared by:

Date: 02/12/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS'
APPROVAL OF:

General Gardens LLC dba Flood's. Application for a Class I FSE at 747 Congress Street.

GENERAL GARDENS LLC
d.b.a. FLOOD'S
747 Congress St
Portland, ME 04102

Liquor License Application
February 4, 2019

Dear Mayor Strimling and City Council Members,

My name is Greg Mitchell and I am the sole member of General Gardens LLC, a Maine limited liability company established to operate a new restaurant in Portland called Flood's. I am writing today to request a full class A liquor license for the establishment, which will be located at 747 Congress Street. The restaurant will be located in the current restaurant space adjacent to The Francis hotel.

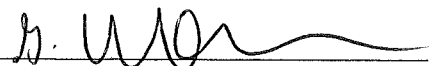
I am hoping to open the first week of May, 2019. Initially, the restaurant will be open for dinner five nights per week, Wednesday through Sunday, with a full service food menu. Lunch will be added as soon as possible on Saturdays and Sundays. Eventually, we will be open for lunch and dinner every day of the week.

This restaurant will be my second restaurant project in Maine. My first is the Palace Diner in Biddeford, ME, which I opened in March of 2014.

Please find attached for your review and anticipated approval all documents required for a Food Service Establishment with Alcoholic Beverages License.

Thank you for your time and consideration.

Sincerely,


Greg Mitchell, Sole Member

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	FLOOD'S Phone: 781-864-2923
Location Address:	747 CONGRESS ST. Zip: 04102
If new, what was formerly at this location:	BOLSTER, SNOW & CO. RESTAURANT
Mailing Address:	747 CONGRESS ST. PORTLAND, ME 04102 Zip:
Contact Person:	GREG MITCHELL Phone: 781-864-2923
Contact Person Email:	FLOODSPORTLAND@GMAIL.COM
Manager of Establishment:	GREG MITCHELL Date of Birth: 11-20-1984 Phone: 781-864-2923
Owner of Premises (Landlord):	ANTHONY DELOIS / UNCOMMON HOSPITALITY / THE FRANCIS LLC
Address of Premises Owner:	795 CONGRESS ST PORTLAND Zip: 04102

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name		Corporate Mailing Address	
GENERAL GARDENS LLC		15 MUNTON ST APT 1 PORTLAND 04101 Zip:	
Contact Person:	GREG MITCHELL	Phone:	781-864-2923
Principal Officers	Title	Date of Birth	Residence Address
GREG MITCHELL	SOLE MEMBER	11/20/84	15 MUNTON ST APT. 1 PORTLAND

About Your Establishment

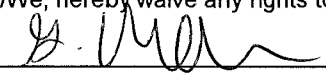
Class of Liquor License:	CLASS 1 / CLASS A RESTAURANT	
Type of food served:	FULL SERVICE DINNER - TAVERN STYLE	
Please circle all that will be served:	☒ Beer ☒ Wine ☒ Liquor	
Projected percentage of sales:	Generated from Food: 70%	Generated from Alcohol: 30%
Hours & days of operation:	THURSDAY - MONDAY 4-11	

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

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

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

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature  Title OWNER Date 1/10/19

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

BUREAU OF ALCOHOLIC BEVERAGES AND LOTTERY OPERATIONS
DIVISION OF LIQUOR LICENSING AND ENFORCEMENT
8 STATE HOUSE STATION, AUGUSTA, ME 04333-0008
10 WATER STREET, HALLOWELL, ME 04347
TEL: (207) 624-7220 FAX: (207) 287-3434
EMAIL INQUIRIES: MAINE.LIQUOR@MAINE.GOV

DIVISION USE ONLY	
License No:	
Class:	By:
Deposit Date:	
Amt. Deposited:	
Cash Ck Mo:	

NEW application: ☒ Yes ☐ No

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ VINOUS ☒ SPIRITUOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTINONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

Corporation Name: GENERAL GARDENS LLC		Business Name (D/B/A) FLOOD'S	
APPLICANT(S) -(Sole Proprietor) DOB: GREG MITCHELL 11-20-1984		Physical Location: 747 CONGRESS ST.	
DOB:		City/Town PORTLAND	State ME
		Zip Code 04102	
Address 15 MUNSOM ST. APT-1		Mailing Address SAME	
City/Town PORTLAND	State ME	Zip Code 04101	
City/Town	State	Zip Code	
Telephone Number 781-864-2923	Fax Number	Business Telephone Number 781-864-2923	Fax Number
Federal I.D. # 83-2930787	Seller Certificate #: or Sales Tax #: 1196737		
Email Address: Please Print FLOODS PORTLAND @ GMAIL.COM	Website: N/A		

If business is NEW or under new ownership, indicate starting date: 1/1/19

Requested inspection date: 4/22/19 Business hours: TH-M 4-11

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

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

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

If YES, complete Supplementary Questionnaire

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

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

9. Business records are located at: 747 CONGRESS ST PORTLAND, ME 04102

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

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

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

Name in Full (Print Clearly)	DOB	Place of Birth
GREGORY MITCHELL	11/20/84	BOSTON, MA
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
PORTLAND, ME		

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

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?

Yes ☐ No ☒ If Yes, give name: _____

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

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: TONY DILOIS
THE FRANKS LLC 795 CONGRESS ST. PORTLAND, ME 04102

17. Describe in detail the premises to be licensed: (On Premise Diagram Required) FIRST & GROUND
FLOOR RESTAURANT - SEE ATTACHED EXHIBIT

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

YES ☐ NO ☒ Applied for: 1/2019

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 0.2 MI. Which of the above is nearest? CHURCH

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

If YES, give details: BANK LOAN, PRIVATE INVESTMENT

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

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

Dated at: PORTLAND, ME on 1/10/2019, 2019
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

GREG MITCHELL

Print Name

Signature of Applicant or Corporate Officer(s)

Print Name



State of Maine
Division of Alcoholic Beverages and
Lottery Operations
Division of Liquor Licensing and Enforcement

Corporate Information Required for
Business Entities Who Are Licensees

For Office Use Only:

License #: _____

SOS Checked: _____

100% Yes ☐ No ☐

Questions 1 to 4 must match information on file with the Maine Secretary of State's office. If you have questions regarding this information, please call the Secretary of State's office at (207) 624-7752. Please clearly complete this form in its entirety.

1. Exact legal name: GENERAL GARDENS LLC
2. Doing Business As, if any: FLOOD'S
3. Date of filing with Secretary of State: 9/28/18 State in which you are formed: ME
4. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: _____
5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

NAME	ADDRESS (5 YEARS)	Date of Birth	TITLE	Ownership %
GREG MITCHELL	15 MUNDY ST PORTLAND, ME	4/20/84	SOLE MEMBER	100%
"	76 MUNDY ST. PORTLAND, ME			

(Stock ownership in non-publicly traded companies must add up to 100%.)

6. If Co-Op # of members: (list primary officers in the above boxes)

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

Yes ☐ No ☒ If Yes, Name: _____ Agency: _____

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

Yes ☐ No ☒

9. If Yes to Question 8, please complete the following: (attached additional sheets as needed).

Name: _____

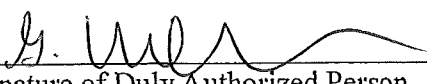
Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:



Signature of Duly Authorized Person

1/10/2019

Date

Greg Mitchell

Print Name of Duly Authorized Person

Submit Completed Forms To:

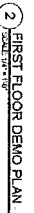
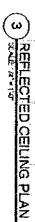
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement
8 State House Station, Augusta, Me 04333-0008 (Regular address)
10 Water Street, Hallowell, ME 04347 (Overnight address)
Telephone Inquiries: (207) 624-7220 Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

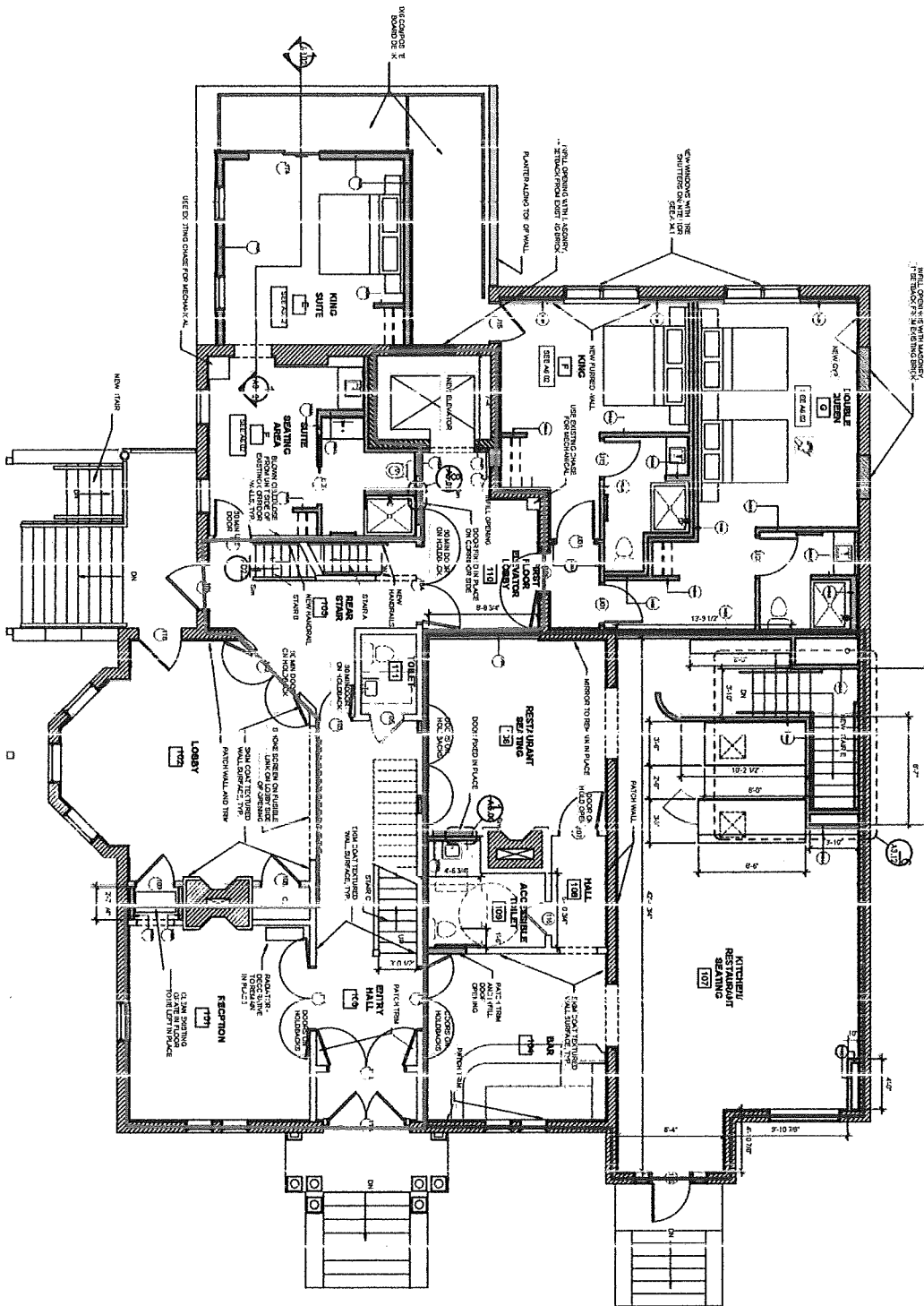
 D1 PLEX 110V OUTLET
 D2 PLEX 110V FLOOR OUTLET
 D3 PLEX 110V OUTLET W/ GFI
 D4 PLEX 110V OUTLET NO GFI

[illegible]

1. CONDUCTED BY THE OWNER
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 3. AFFECTED BY CONSTRUCTION
 4. O.C. TO FIELD VEGETATION
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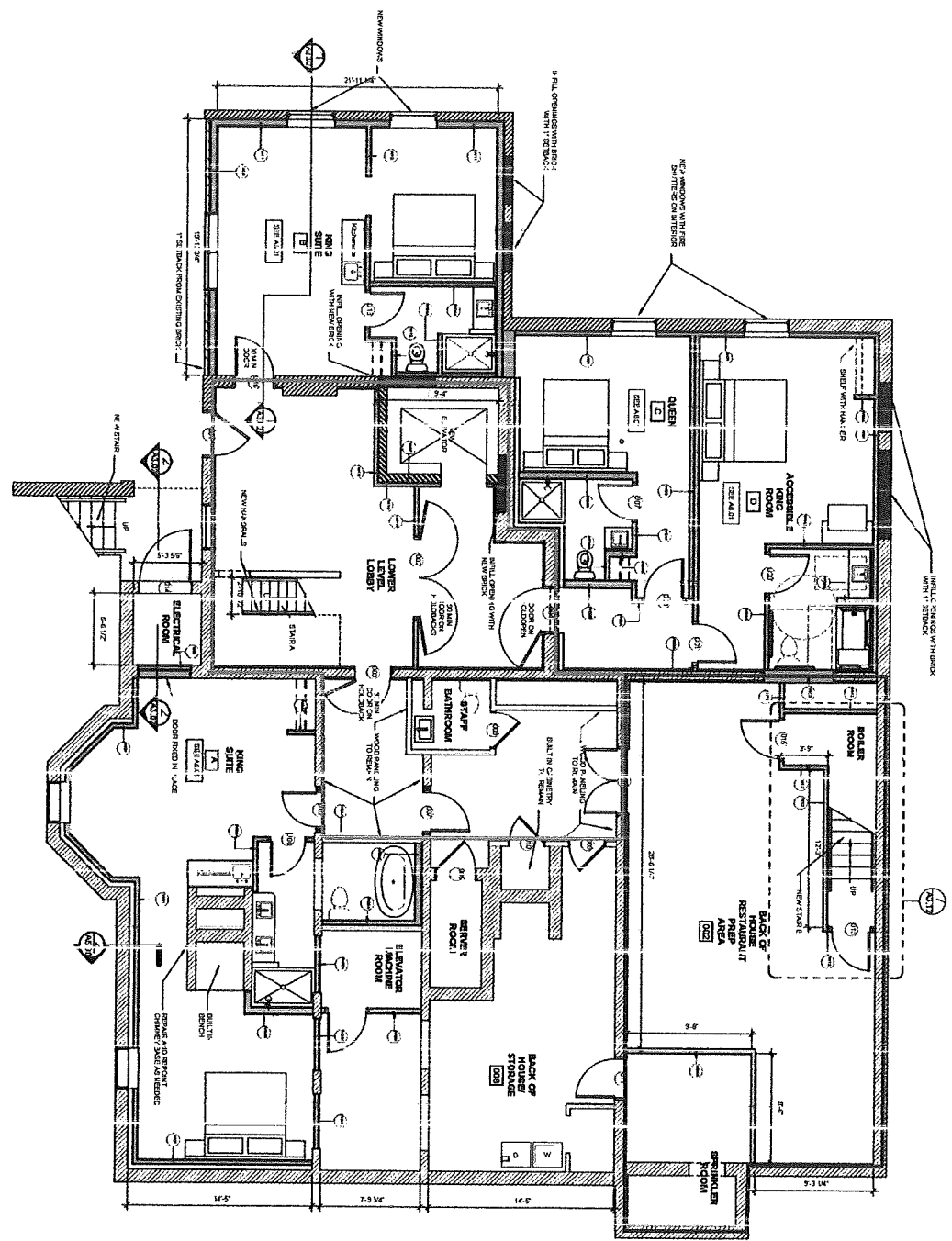
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Date: 06 OCT 2016 Scale: 1/4" = 1'-0" NEW FIRST FLOOR PLAN	Revised: 09-23-24 ADDENDUM 01	Project: THE FRANCIS 749 CONGRESS ST PORTLAND, ME 04103	Architect: ARCHETYPE Architects 43 Union Wharf Portland, Maine 04103 (207) 774-4722 ARCHTYPE@ARCHETYPEA.COM	Consultant:	Prepared For: 747 CONGRESS LLC	
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1 GROUND FLOOR - NEW



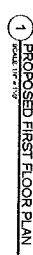
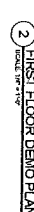
A1.00	Date: 06 OCT 2016 Scale: 1/4" = 1'-0"	Revision: 1 08-01-20 ADDENDUM 02 2 10-01-20 ADDENDUM 04 3 10-04-20 ADDENDUM 05	Project: THE FRANCIS 749 CONGRESS ST PORTLAND, ME 04102	Architect: ARCHETYPE architects 48 Udon Wharf Portland, Maine 04102 (207) 774-6244 ARCHTYPE@ARCHTYPE72A.COM	Consultant:	Prepared For: 747 CONGRESS LLC	
	NEW GROUND FLOOR PLAN						

	MEDIUM PENDANT ON CORD MOUNT
	CHANDLIER/PENDANT
	WALL SCONCE
	TABLE LAMP

- DUCTS: 130" OUTLET
- DUCTS: 110" FLOOR OUTLET (GT 31 FPM)
- DUCTS: 110" OUTLET w/ROUND PLATE W/INSULP
- DUCTS: 110" OUTLET INDICATED FOR EXPOSED JOINT
- COLD AIR OUTLET

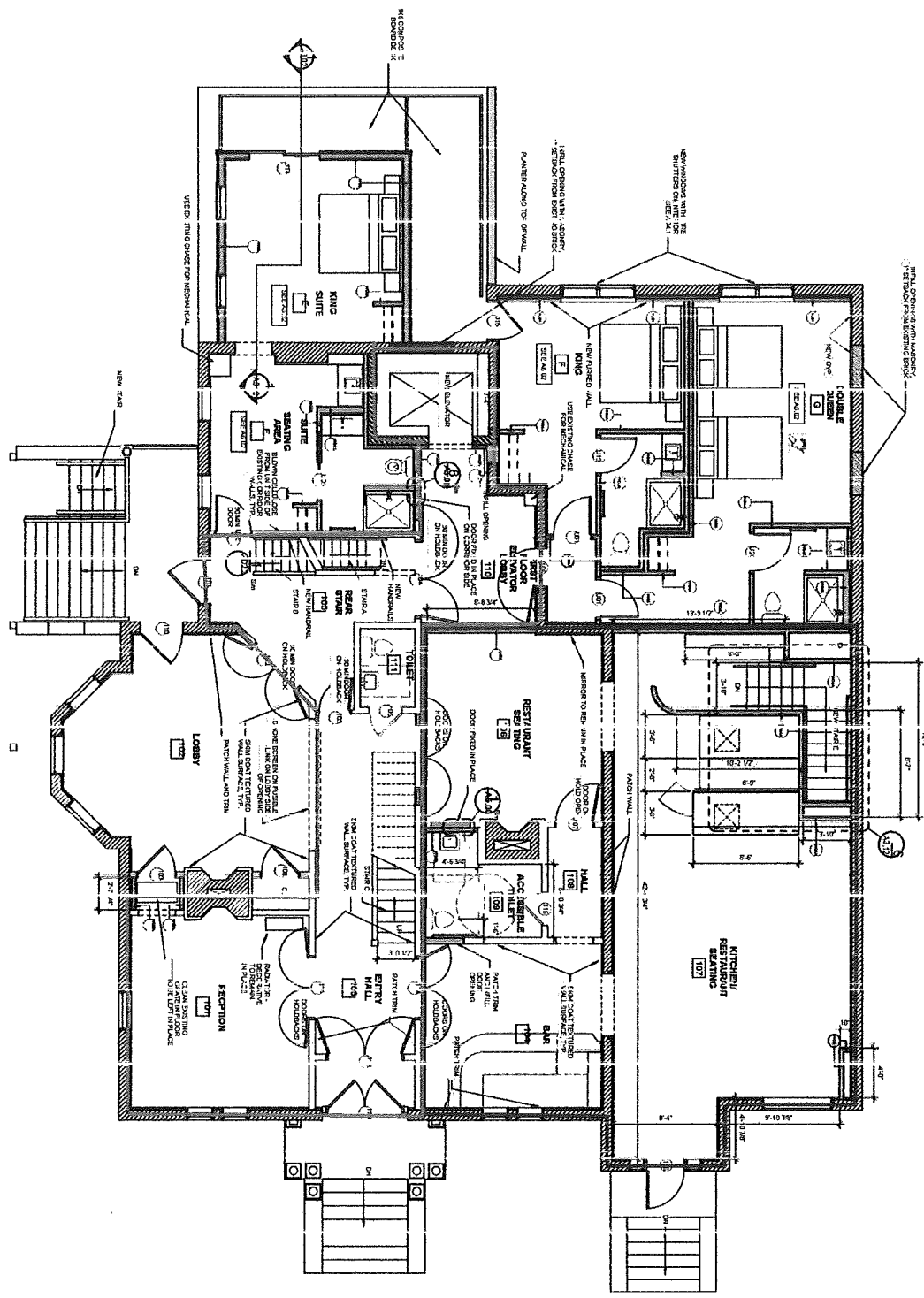
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1. CONSTRUCTION WORK WITH NEW
2. CONSTRUCTION.
3. 0-5-P-AL COMPONENT EXISTING OF ALL
4. ELECTRICAL, PLUMBING AND
5. TO BE REACHED BY SKEINER LIFTES NOTED
6. REMOVED DOWN TO BUILDUP ON LOCATED
7. OUT OF PLACING WAY FOR RELOCATION IN
8. NEW CONSTRUCTION. O.C. TO
9. COORDINATE.
10. DEMOLITION OF STRUCTURE, PARTS &
11. DRAINAGE REMOVED, EXISTING &
12. APPLIANCES FOR TRUCK, TRP.

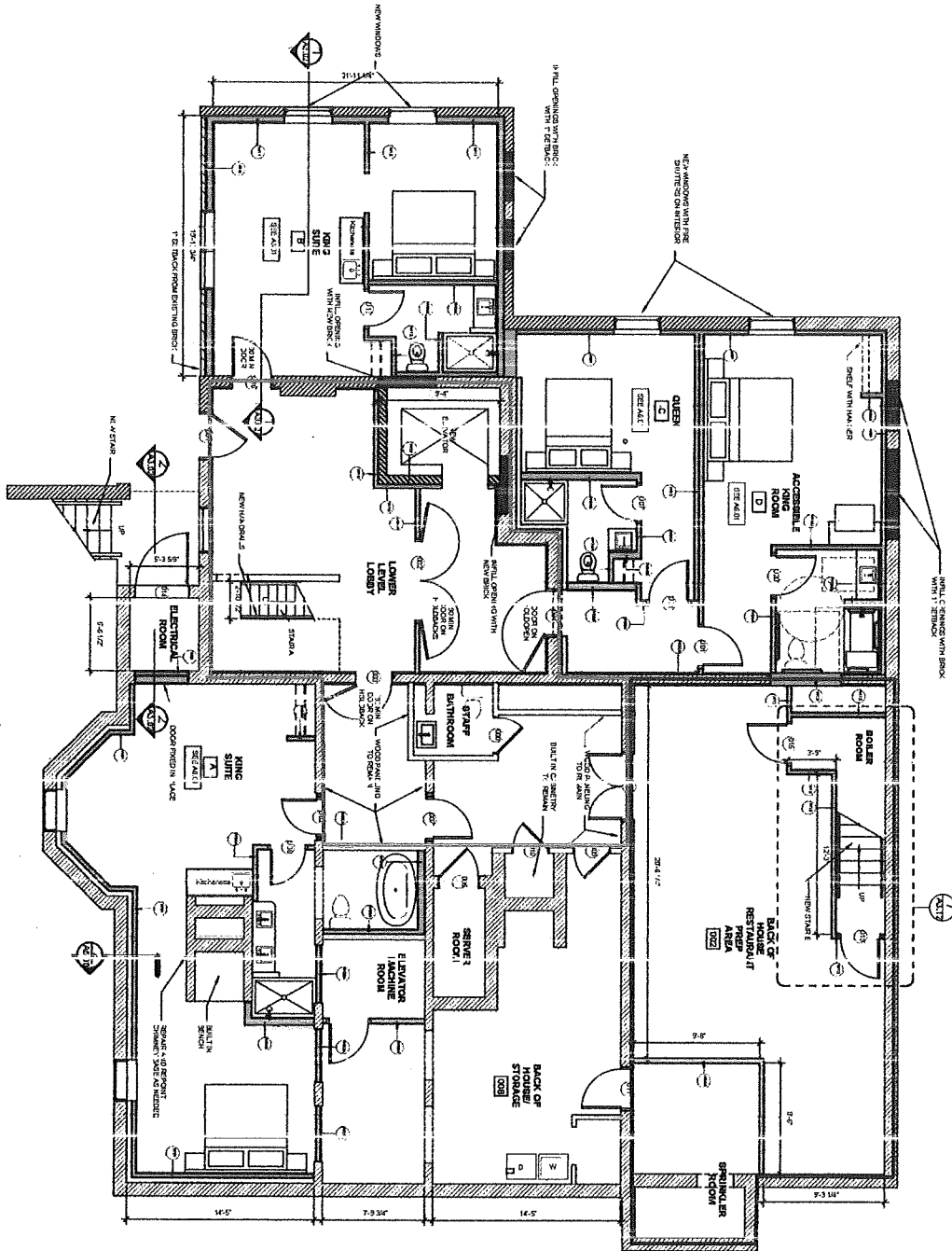
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1st FLOOR - NEW



Date: 06 OCT 2016	Scale: 1/4" = 1'-0"	Revision: 09-23-24 ADDENDUM 01 10	Project: THE FRANCIS	Architect: ARCHETYPE Architects 48 Union Wharf Portland, Maine 04108 (207) 442-4242	Consultant:	Prepared For: 747 CONGRESS LLC	
NEW FIRST FLOOR PLAN			749 CONGRESS ST PORTLAND, ME 04102				



A1.00

Date:	06 OCT 2016
Scale:	1/4" = 1'-0"
NEW GROUND FLOOR PLAN	

Revisions	
1	08-01-20 ADDENDUM 02
2	09-23-20 ADDENDUM 04
3	10-04-20 ADDENDUM 05

Project:	THE FRANCIS
	749 CONGRESS ST PORTLAND, ME 04102

Architect:	ARCHETYPE
	48 Union Wharf Portland, ME 04101 (207) 761-4121 ARCHTYPE@ARCHETYPELLC.COM

Consultant:	
-------------	--

Prepared For:	747 CONGRESS LLC
---------------	------------------



Menu

Bar

Bar Nuts	\$
Cheese Toast	\$
White Bread Sandwich	\$
Chopped Liver and Toast Points	\$
Grilled Oysters.....	\$

Salads

Little Gems Caesar	\$
Spring Greens and Herbs	\$
New Potatoes and Beets	\$

Supper

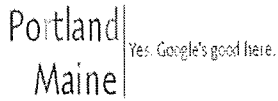
Clams on Toast	\$
Fried Pig's Foot	\$
Grilled Beef Tongue	\$
Ravioli	\$
Whole Fish du Jour	\$
Chicken Schnitzel	\$
Lamb Shoulder	\$
Porterhouse	\$
Cheeseburger and Fries	\$

With Supper

Pommes Aligot	\$
French Fries	\$
Creamed Spinach	\$
Grilled Cabbage	\$
Brown Butter Carrots	\$
Parker House Rolls	\$

Dessert

Butterscotch Pudding	\$
Cornmeal Cake, Strawberries and Cream	\$
Chocolate Souffle	\$



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Flood's

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Feb 5, 2019 at 4:43 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petrucci <petruccid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>

PD has no objections.

Kevin C.

On Tue, Feb 5, 2019 at 1:32 PM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for a Class I FSE. This will go before council on 3/4/2019. Please advise. Thanks Jessica

Jessica Blais Hanscombe

Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov

--

Lt. Kevin Cashman

Portland Police Department

Patrol Division

109 Middle St

Portland, Maine 04101

(O) 207-756-8294

kevindc@portlandmaine.gov.

Hours - Saturday thru Tuesday (4pm-2am)



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

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D874163

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-05) :

Inquiries Name(s) **GREG MITCHELL (1984-11-20)**

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
Michael A. Russell, MS, Director

February 12, 2019

General Gardens Inc
747 Congress Street
Portland ME 04102

Re: General Gardens LLC dba Flood's. Application for a Class I FSE at 747 Congress Street.

Dear Greg Mitchell

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 4, 2019 at 5:30 p.m.**, for the review of application for a Class I FSE at 747 Congress Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 4, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., General Gardens LLC dba Flood's. Application for a Class I FSE at 747 Congress Street. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 12, 2019

SUBJECT: **Order 169-18/19 Granting Municipal Officers' Approval of The Sustainability Lab dba Fork Food Lab Application for a Class III & IV with Outdoor Dining on Private Property at 72 Parris Street - Sponsored by Jon P. Jennings, City Manager**

SPONSOR:

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

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

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

The Sustainability Lab dba Fork Food Lab. Application for a Class III & IV with Outdoor Dining on Private Property at 72 Parris Street.

Application was filed on 2/1/2019. Applicant currently holds a Class III & IV license.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Fork Food-Outdoors.docx

2. 20190212103944368

Prepared by:

Date: 02/12/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

The Sustainability Lab dba Fork Food Lab. Application for a Class III & IV with Outdoor Dining on Private Property at 72 Parris Street.



Letter of Intent

The Sustainability Lab DBA Fork Food Lab
72 Parris Street
Portland, ME 04101
January 29, 2019

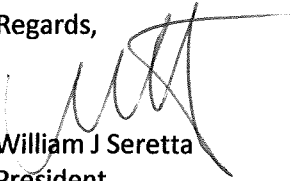
Dear Mayor Strimling and Members of the City Council,

As you know The Sustainability Lab took over the operation of Fork Food Lab on October 1, 2018 and applied for and received a Liquor License for Beer and Wine in November 2018.

To bring further growth to Fork Food Lab and the small businesses housed within it, we are writing you today seeking approval to continue outside dining for our popup events when weather permits. Attached please find our Outside Dining Permit Application.

We are excited to be expanding this creative establishment and allowing our small member companies to develop their businesses and brand awareness and package it all into a unique experience that will drive traffic to West Bayside.

Regards,



William J Seretta
President
The Sustainability Lab

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

**Outdoor Dining Permit on Private Property
 Supplemental Application**

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
 Valid April 1-November 15

☒ Outdoor Dining on Private Property \$125.00 ☒ Legal Advertisement Deposit \$100.00

Business Information			
Business Name (d/b/a):	The Sustainability Lab/ dba Fork Food Lab	Phone:	207-558-0881
Location Address:	72 Parris St Portland, ME 04101	Zip:	
Mailing Address:	Same	Zip:	
Contact Person:	Bill Seretta	Phone:	207 831-1438
Contact Person Email:	bill.seretta@theslab.org		
Manager of Establishment:	Jennifer Stein	Date of Birth:	01/22/2017
		Phone:	207-558-0881
Owner of Premises (Landlord):	FORQ,LLC		
Address of Premises Owner:	PO Box 4351, Portland, ME	Zip:	04101

Owner Information

Corporate Name		Corporate Mailing Address	
The Sustainability Lab		60 Oakland Ave, Yarmouth, ME 04096	Zip:
Contact Person:	Bill Seretta	Phone:	207 831-1438
Principal Officers	Title	Date of Birth	Residence Address
Elizabeth Boepple, Esq	Chairperson	03/03/58	150 Middle Street, 2F, Portland ME 04101
Michael J Walker	Treasurer	5/20/55	24 Albany Street , South Portland 04106
Benjamin W Tettlebaum	Secretary	4/15/77	438 N. Pownal Rd, New Gloucester, ME 04260
William J Seretta	President	10/4/47	60 Oakland Ave , Yarmouth, ME

About Your Establishment

Class of License:	Class III & IV
Type of food served:	Full course meals & finger food
Please circle all that will be served:	☒ Beer ☒ Wine ☐ Liquor
Hours & days of operation:	Scheduled by appointment
Number of Tables	6
Number of Chairs	24

Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

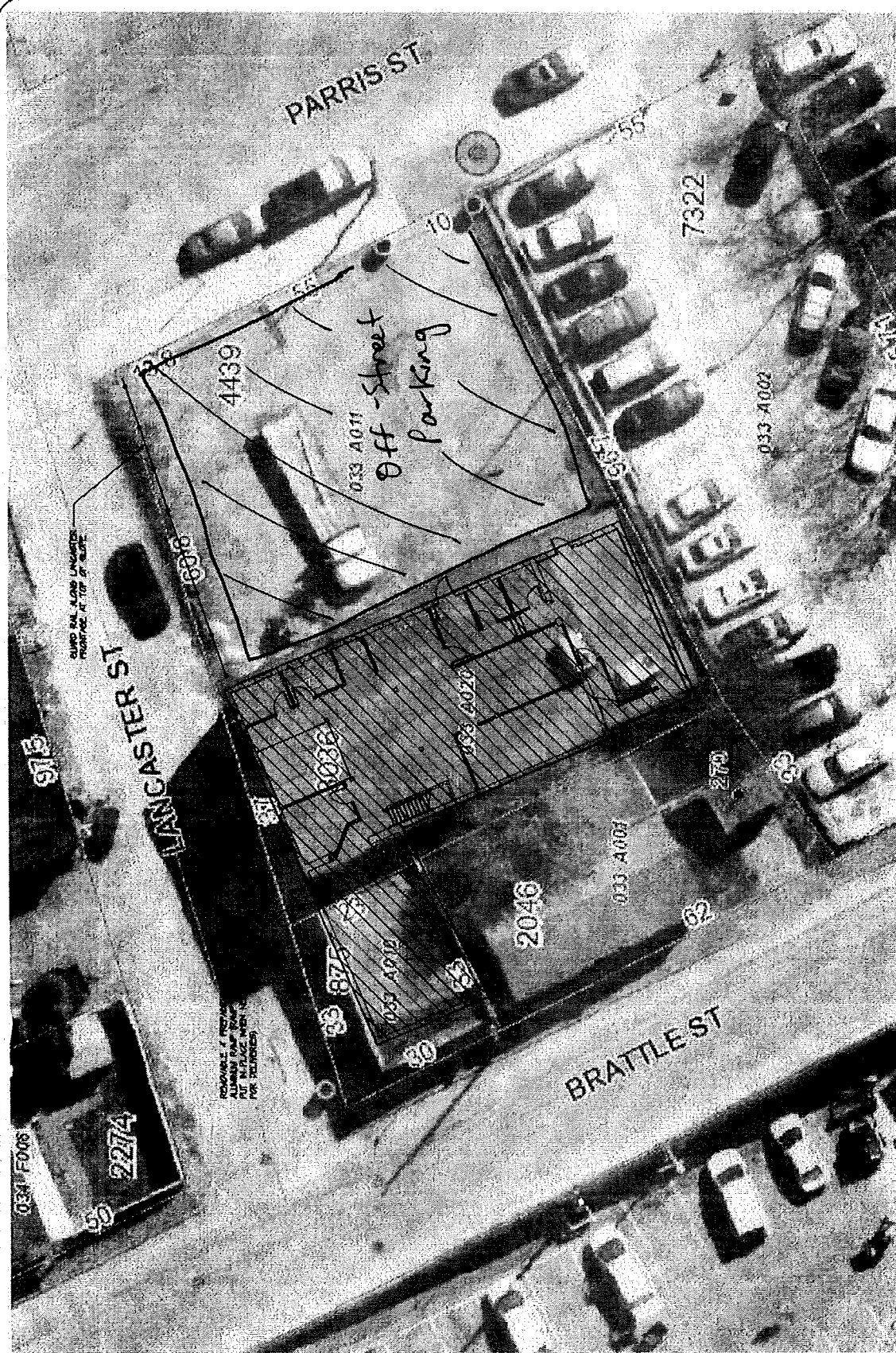
- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

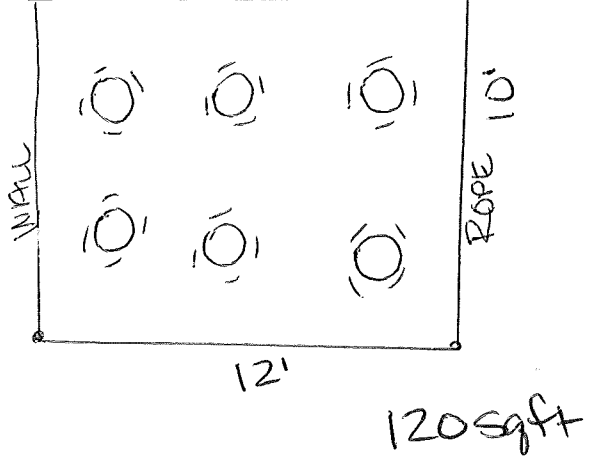
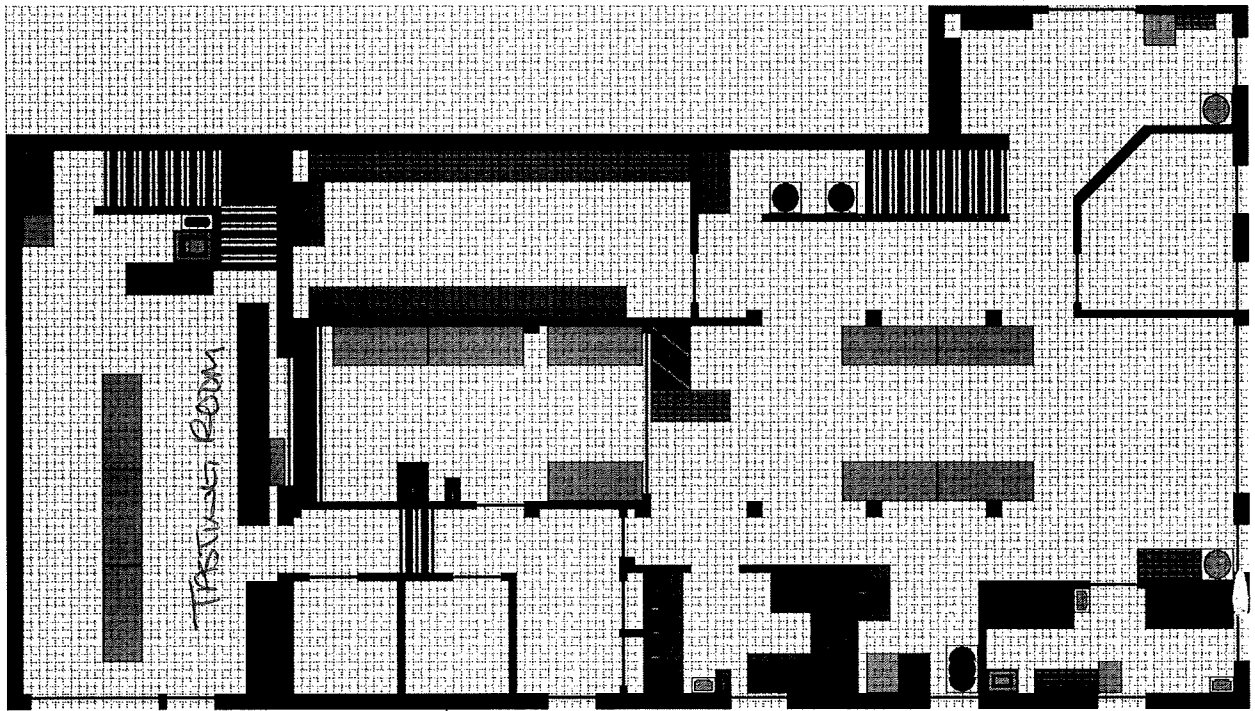
I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

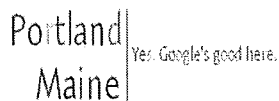
Signature William J. Seretta Title President Date 1/29/19

For Administrative Use Only

Amount: _____		Request Date /	Approval	Notes: _____
Date Paid: _____	FD: _____	_____	_____	_____
CC _____ CA _____ CK _____	Health: _____	_____	_____	_____
	PD: _____	_____	_____	_____
Amount: _____	PR: _____	_____	_____	_____
Date Paid: _____	Treasury: _____	_____	_____	_____
CC _____ CA _____ CK _____	Zoning: _____	_____	_____	_____





**Jessica Hanscombe** <jhanscombe@portlandmaine.gov>

Re: Fork Food Lab

Kevin Cashman <kevindc@portlandmaine.gov>

Sat, Feb 2, 2019 at 4:35 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Jeanie Bourke <jmb@portlandmaine.gov>

PD has no objections.

Kevin C.

On Fri, Feb 1, 2019 at 1:55 PM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Afternoon

Please see the attached application for Outdoor Dining at Fork Food Labs. This will go before council on 3/4. Please advise. Thanks Jessica

Jessica Blais Hanscombe
Licensing and Registration Coordinator
389 Congress Street Room 307
Portland, Maine 04101
207-874-8783
jhanscombe@portlandmaine.gov

--

Lt. Kevin Cashman
Portland Police Department
Patrol Division
109 Middle St
Portland, Maine 04101
(O) 207-756-8294
kevindc@portlandmaine.gov.
Hours - Saturday thru Tuesday (4pm-2am)

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
Michael A. Russell, MS, Director

February 12, 2019

The Sustainability Lab
72 Parris Street
Portland ME 04101

Re: The Sustainability Lab dba Fork Food Lab. Application for a Class III & IV with Outdoor Dining on Private Property at 72 Parris Street.

Dear Bill Seretta,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 4, 2019 at 5:30 p.m.**, for the review of application for a Class III & IV with Outdoor Dining on Private Property at 72 Parris Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 4, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., The Sustainability Lab dba Fork Food Lab. Application for a Class III & IV with Outdoor Dining on Private Property at 72 Parris Street. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 12, 2019

SUBJECT: Order 170-18/19 Granting Municipal Officers' Approval of Sun Tiki Studios LLC dba Sun Tiki Studios LLC Application for an Auditorium with Entertainment with Dance and After Hours Entertainment at 375 Forest Avenue - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

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

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Sun Tiki Studios LLC dba Sun Tiki Studios LLC. Application for an Auditorium with Entertainment with Dance and After Hours Entertainment at 375 Forest Avenue.

Application was filed on 2/4/2019. New City application. Applicant currently has a pending Auditorium with Entertainment with Dance.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Sun Tiki After hours.docx
2. 20190213082233281

Prepared by:

Date: 02/12/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Sun Tiki Studios LLC dba Sun Tiki Studios LLC. Application for an Auditorium with Entertainment with Dance and After Hours Entertainment at 375 Forest Avenue.

Dear Mayor and members of city council,

Sun Tiki Studios LLC. is seeking an add-on to our already approved beer and wine liquor license with live entertainment and dancing. We are looking to add-on the "After-Hours" dance license from 1am-3am. This is the final piece to bringing us closer to our musical vision for our hometown. We have already secured an insurance policy for coverage of our business and patrons until 3am. Granting this license will give Portland's dance community a safe and official place to dance and express themselves after the bars have closed. We look forward to your decision and are excited for the future.

Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'Ian Smith', written over a horizontal line.

Ian Smith - Owner/Founder/Operator

A handwritten signature in black ink, appearing to read 'Cecil Gardner', written over a horizontal line.

Cecil Gardner - Founder/Operator

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
Michael A. Russell, MS, Director

389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557

www.portlandmaine.gov

Supplemental Application for Dancing and Entertainment License

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Alcohol license.

☐ Entertainment without Dancing: \$295 ☐ Entertainment with Dancing: \$529 ☒ After-Hours (1 a.m. to 3 a.m.): \$595

Business Information			
Business Name (d/b/a):	Sun Tiki Studios LLC	Phone:	207-329-5621
Location Address:	375 Forest Avenue	Zip:	04101

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:		
Live music entertainment with beer + wine license and late night dancing.		
Will music be electric, acoustical, or <u>both</u> ? (Circle)		
Will amplification be used? <u>Yes</u>		☒ Y ☐ N
If yes, where and at what level?		
<u>Always inside and at normal club/music venue volumes</u>		
Will music be played (Circle all that apply): <u>Inside</u> Outside		
Will you permit dancing on the premises? <u>Yes</u>		☒ Y ☐ N
Will you permit dancing after 1:00 a.m.? <u>Yes</u>		☒ Y ☐ N
What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? _____		
What is your targeted opening date? <u>March 2019</u>		
Does the Issuance of this license directly or indirectly benefit any City employee(s)? <u>No</u>		☒ Y ☐ N
If Yes, list name(s) of employee(s) and department(s):		

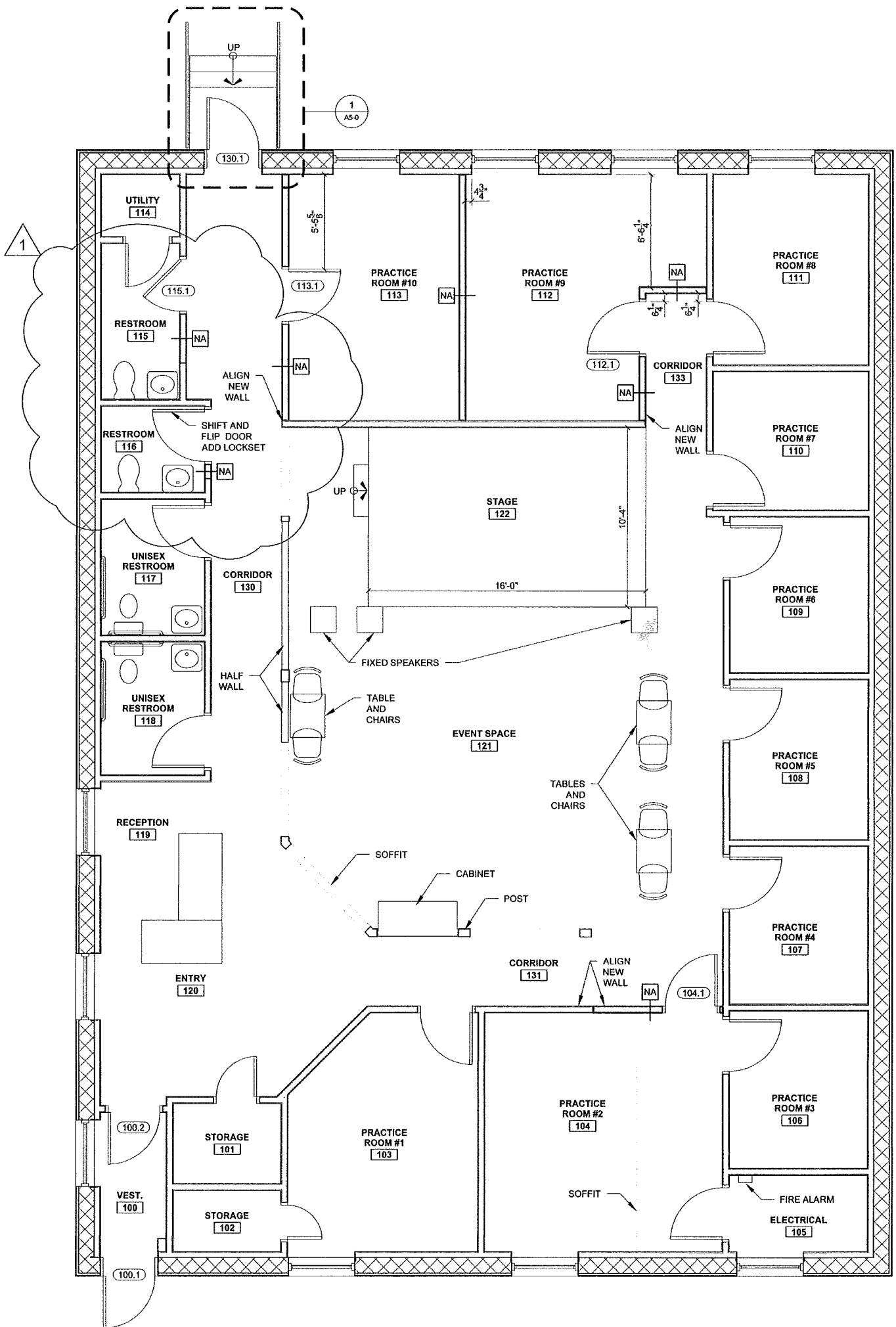
Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts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

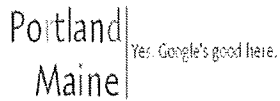
It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

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

Signature [Signature] Title Founder, Manager Date 2/4/19

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov





Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Sun Tiki

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Feb 12, 2019 at 8:23 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Pd has no objections.

Kevin C.

On Tue, Feb 12, 2019 at 10:47 Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Hi Lt

They are applying to go before council for an After Hours Entertainment license, Please advise. Thanks

Jessica

Jessica Blais Hanscombe

Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov

--
Sent from Gmail Mobile

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
Michael A. Russell, MS, Director

February 12, 2019

Sun Tiki Studios
375 Forest Ave
Portland ME 04101

Re: Sun Tiki Studios LLC dba Sun Tiki Studios LLC. Application for an Auditorium with Entertainment with Dance and After Hours Entertainment at 375 Forest Avenue.

Dear Cecil Gardner

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 4, 2019 at 5:30 p.m.**, for the review of application for an Auditorium with Entertainment with Dance and After Hours Entertainment at 375 Forest Avenue. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,

Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 4, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Sun Tiki Studios LLC dba Sun Tiki Studios LLC. Application for an Auditorium with Entertainment with Dance and After Hours Entertainment at 375 Forest Avenue. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 12, 2019

SUBJECT: Order 171-18/19 Granting Municipal Officers' Approval of Marshview LLC dba Brewery Extrava Application for a Brewery with Entertainment without Dance and Outdoor Dining on Private Property at 66 Cove Street - Sponsored by Jon P. Jennings, City Manager

SPONSOR:

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

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

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

II. AGENDA DESCRIPTION

Marshview LLC dba Brewery Extrava. Application for a Brewery with Entertainment without Dance and Outdoor Dining on Private Property at 66 Cove Street.

Application was filed on 2/5/2019. New City application. Location was previously a mechanical contractor.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Staff Analysis and Background that will not appear in the Agenda Description.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. Brewery Extrava.docx
2. 20190212114222283

Prepared by:

Date: 02/12/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY M. COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

ORDER
GRANTING MUNICIPAL OFFICERS’
APPROVAL OF:

Marshview LLC dba Brewery Extrava. Application for a Brewery with Entertainment without Dance and Outdoor Dining on Private Property at 66 Cove Street.

Feb 4 2019

City of Portland Maine

Letter of Intent for Alcohol Service, Entertainment and Outdoor Dining

To Mayor Strimling and Portland City Council Members,

I am writing this letter on behalf of the Marshview LLC dba Brewery Extrava ownership team to request your support of our applications for Brewery Alcohol Service as well as Entertainment and Outdoor Dining licenses.

Brewery Extrava is planning for a Summer 2019 opening of our new craft brewery and tasting room at 66 Cove Street in Portland, Maine. We have executed a 5 year lease with an option for two 5 year renewals. The 5000sf building will consist of a 1000sf retail tasting room with the remainder of the site being devoted to production and warehouse space for the brewery.

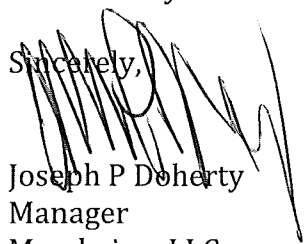
Our business plan calls for selling our beer for on site consumption as well as for take away. We have requested zoning approval to establish a 40-50 seat seasonal outdoor dining area adjacent to our tasting room which is located on private property. Additionally, we plan to offer occasional musical entertainment by solo acts or small groups.

The ownership team, consisting of Charlene Doherty, Michael LaCharite, and Joe Doherty, bring craft brewing and small business ownership experience to the project. Michael LaCharite, who resides in Topsham, has been involved in Maine's craft brewing industry for the past 25 years as business owner, brew master, and industry consultant. Charlene and Joe Doherty, who live in Scarborough, own a successful small manufacturing company in addition to having sales, marketing, and business development experience gained through careers with multiple medium and large corporations.

We look forward to adding to the already vibrant Portland craft brewing scene, joining Portland's business community and becoming part of the East Bayside Neighborhood.

Thanks for your consideration and support for our applications.

Sincerely,



Joseph P Doherty
Manager
Marshview LLC
dba Brewery Extrava

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department

Michael A. Russell, MS, Director

389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557

www.portlandmaine.gov

Application for Food Service Establishment with Alcoholic Beverages License

Business Information	
Business Name (d/b/a):	MARSHVIEW LLC (also Brewery EXTRA) Phone: 508 304-5567
Location Address:	66 Cove St PORTLAND, ME Zip: 04101
If new, what was formerly at this location:	MECHANICAL CONTRACTOR
Mailing Address:	16 Jones Creek Dr. Searborough ME Zip: 04074
Contact Person:	Joseph P. Doherty Phone: 508 304-5567
Contact Person Email:	joe@breweryextra.com
Manager of Establishment:	Joe Doherty Date of Birth: 06/13/67 Phone: 508 304-5567
Owner of Premises (Landlord):	Sleepy Hollow Development, Inc; DWAN LEVENSON
Address of Premises Owner:	PO Box 2198 WIMBORUM, ME Zip: 04062

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

Name of Owner(s)	Date of Birth	Residence Address

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

Corporate Name		Corporate Mailing Address																					
MARSHVIEW, LLC		16 Jones Creek Dr Searborough ME 04074 Zip: 04074																					
Contact Person:	Joseph P Doherty	Phone:	508 304-5567																				
<table border="1"> <tr> <th>Principal Officers</th> <th>Title</th> <th>Date of Birth</th> <th>Residence Address</th> </tr> <tr> <td>Joseph P Doherty</td> <td>Partner/Manager</td> <td>06/13/67</td> <td>16 Jones Creek Dr. Searborough ME 04074</td> </tr> <tr> <td>Michael D LaGarde</td> <td>Partner/Partner</td> <td>06/12/60</td> <td>352 Middlesex Rd Ipswich ME 04086</td> </tr> <tr> <td>Caroline L Doherty</td> <td>Partner</td> <td>07/05/69</td> <td>16 Jones Creek Dr Searborough ME 04074</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>				Principal Officers	Title	Date of Birth	Residence Address	Joseph P Doherty	Partner/Manager	06/13/67	16 Jones Creek Dr. Searborough ME 04074	Michael D LaGarde	Partner/Partner	06/12/60	352 Middlesex Rd Ipswich ME 04086	Caroline L Doherty	Partner	07/05/69	16 Jones Creek Dr Searborough ME 04074				
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Caroline L Doherty	Partner	07/05/69	16 Jones Creek Dr Searborough ME 04074																				

About Your Establishment

Type of Establishment:	☒ Brewery ☐ Winery ☐ Distillery
Hours & days of operation:	TH-SAT 12-8; SUN 12-6; Mon + Wed 12-7 All times PM

QUESTIONS	Y/N
Will food be made, served, and/or sold on the premise by this establishment?	☒ Y ☐ N
If yes, please submit a City of Portland Food Service Establishment license application.	☒
Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?	☐ Y ☒ N
If yes, give the distance:	
Will you have entertainment on the premises? (If yes, a Supplemental Application for Dancing & Entertainment is required.)	☐ Y ☒ N
Will you permit dancing on the premises?	☐ Y ☒ N
Will you permit dancing after 1:00 a.m.?	☐ Y ☒ N
Will you have outside dining? (If yes, an Outdoor Dining Application is required)	☐ Y ☒ N
If yes, will the outside dining be on PUBLIC or <u>PRIVATE</u> property (circle one).	
Will you have any amusement devices (pinball, video games, juke box)?	☐ Y ☒ N
If yes, please list: # of pinball machines: _____ # of amusements: _____ # of pool tables: _____	
What is your targeted opening date? <u>June 15 2019</u>	
Does the Issuance of this license directly or indirectly benefit any City employee(s)?	☐ Y ☒ N
If Yes, list name(s) of employee(s) and department(s):	
Have any of the applicants, including the corporation (if applicable), ever held a business license with the City of Portland?	Y/N
If Yes, please list business name(s) and location(s):	
Is any principal officer under the age of 21?	☐ Y ☒ N
Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law?	☐ Y ☒ N
If Yes, please explain:	

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

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

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto. I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title MANAGER Date 1/20/19

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

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
Michael A. Russell, MS, Director

389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557

www.portlandmaine.gov

Supplemental Application for Dancing and Entertainment License

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Alcohol license.

☒ Entertainment without Dancing: \$295 ☐ Entertainment with Dancing: \$529 ☐ After-Hours (1 a.m. to 3 a.m.): \$595

Business Information		
Business Name (d/b/a):	MARSHVIEW LLC (aka Brewery Extra)	Phone: 508 304 5567
Location Address:	66 Cove St Portland, ME	Zip: 04074

About Your Establishment

Describe in detail the type and nature of the business and proposed entertainment:	
Brewery w/ Tasting Room ; Solo + Small Group Musical Entertainment	
Will music be electric, acoustical, or both? (Circle)	
Will amplification be used? - INDOORS ONLY	Y(N)
If yes, where and at what level? WE WILL ALLOW ARTS TO USE SMALL AMPLIFIED TO PLAY MUSIC INSIDE ONLY. NO AMPLIFICATION OUTDOORS	
Will music be played (Circle all that apply): Inside Outside	
Will you permit dancing on the premises?	Y(N)
Will you permit dancing after 1:00 a.m.?	Y(N)
What is your targeted opening date?	
Does the issuance of this license directly or indirectly benefit any City employee(s)?	Y(N)
If Yes, list name(s) of employee(s) and department(s):	

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

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

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

Signature [Signature] Title MANAGER Date 1/20/19

For more information, refer to the City Code of Ordinance: Chapter 4 Amusements, at www.portlandmaine.gov



Permitting and Inspections Department
 Michael A. Russell, MS, Director
 389 Congress St. Room 307 • Portland, ME 04101 • (207) 874-8557
www.portlandmaine.gov

Outdoor Dining Permit on Private Property Supplemental Application

License accompanies a City of Portland Food Service Establishment or Food Service Establishment with Liquor License
 Valid April 1-November 15

☒ Outdoor Dining on Private Property \$125.00 ☒ Legal Advertisement Deposit \$100.00

Business Information			
Business Name (d/b/a):	MARSHVIEW LLC (dba Brewery Extrava)	Phone:	508 304-5567
Location Address:	66 Cove St Portland ME	Zip:	04101
Mailing Address:	16 Jones Creek Dr Scarborough ME	Zip:	04074
Contact Person:	Joseph P Doherty	Phone:	508 304-5567
Contact Person Email:	joe@breweryextrava.com		
Manager of Establishment:	Joseph Doherty	Date of Birth:	06/13/67
		Phone:	508 304 5567
Owner of Premises (Landlord):	Sleepy Hollow Development, LLC; HUAN LEVENSON		
Address of Premises Owner:	PO Box 2198 WILLOWHAM ME	Zip:	04062

Owner Information

Corporate Name		Corporate Mailing Address																	
MARSHVIEW LLC		16 Jones Creek Dr Scarborough ME 04074																	
Contact Person:	Joseph P Doherty	Phone:	508 304-5567																
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About Your Establishment

Class of License:	Small Brewery
Type of food served:	Pre Packaged Chips, Sandwiches, Gousses + Crackers, Nosh
Please circle all that will be served:	Beer Wine Liquor
Hours & days of operation:	Th-Sat 12-8PM; Sun 12-6PM; Mon-Wed 12-7PM
Number of Tables	8
Number of Chairs	23

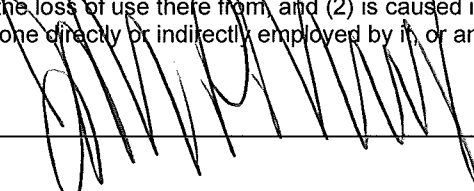
Design and Construction

- If you are building a structure or adding impervious surface for the outdoor dining area please contact the Permitting and Inspections Department for permitting requirements at permitting@portlandmaine.gov or 874-8703.

Maintenance and Operations

- Outdoor dining components must be within the permitted area and allow safe passage of pedestrian traffic. Failure to comply may result in a revocation of the permit.
- No food shall be prepared in the designated outdoor dining area.
- Outdoor dining areas must meet ADA regulations and accessible seating is required.

I/We fully understand that the City of Portland, its agents, officers and employees accept no responsibility and will not be liable for any injury, harm or damage to my/our person or property arising out of the establishment's occupancy of the sidewalk or park space. To the fullest extent permitted by law, I/We do hereby agree to assume all risk of injury, harm or damage to my/our person or property (including but not limited to all risk of injury, harm or damage to my/our property cause by the negligence of the City of Portland, its agents, officers or employees) arising out of the establishment's occupancy of the sidewalk or park space. I/We hereby agree, to the fullest extent permitted by law, to defend, indemnify and hold harmless the City of Portland, its agents, officers and employees, from and against all claims, damages, losses and expenses, just or unjust, including, but not limited to costs of defense and attorney's fees, arising out of the establishment's occupancy of the sidewalk or park space, provided that any such claims, damage, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property including the loss of use there from, and (2) is caused in whole or in part by any negligent act or omission of the establishment, anyone directly or indirectly employed by it, or anyone for whose act it may be liable.

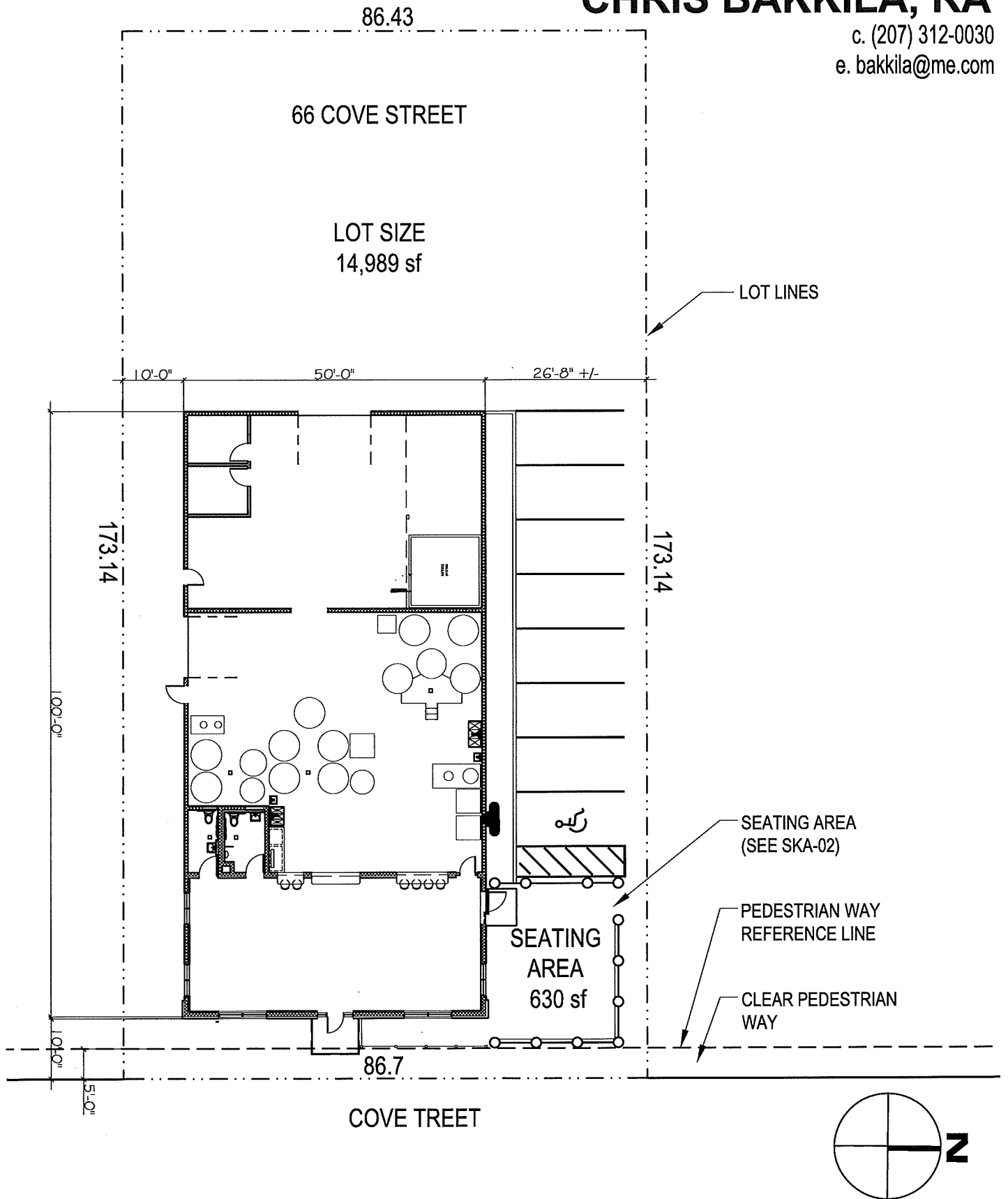
Signature  Title MANAGER Date 1/20/19

For Administrative Use Only

Amount: _____	Request Date / Approval	Notes: _____
Date Paid: _____	FD: _____	_____
CC _____ CA _____ CK _____	Health: _____	_____
	PD: _____	_____
Amount: _____	PR: _____	_____
Date Paid: _____	Treasury: _____	_____
CC _____ CA _____ CK _____	Zoning: _____	_____

CHRIS BAKKILA, RA

c. (207) 312-0030
e. bakkila@me.com



**MARSHVIEW LLC, BREWERY
& TASTING ROOM**

PROJECT NAME

SEATING PERMIT

ISSUED WITH

PLOT PLAN

SKETCH TITLE

01/30/2019

DATE

NTS

SCALE

A6.1

DRAWING REFERENCE

18004

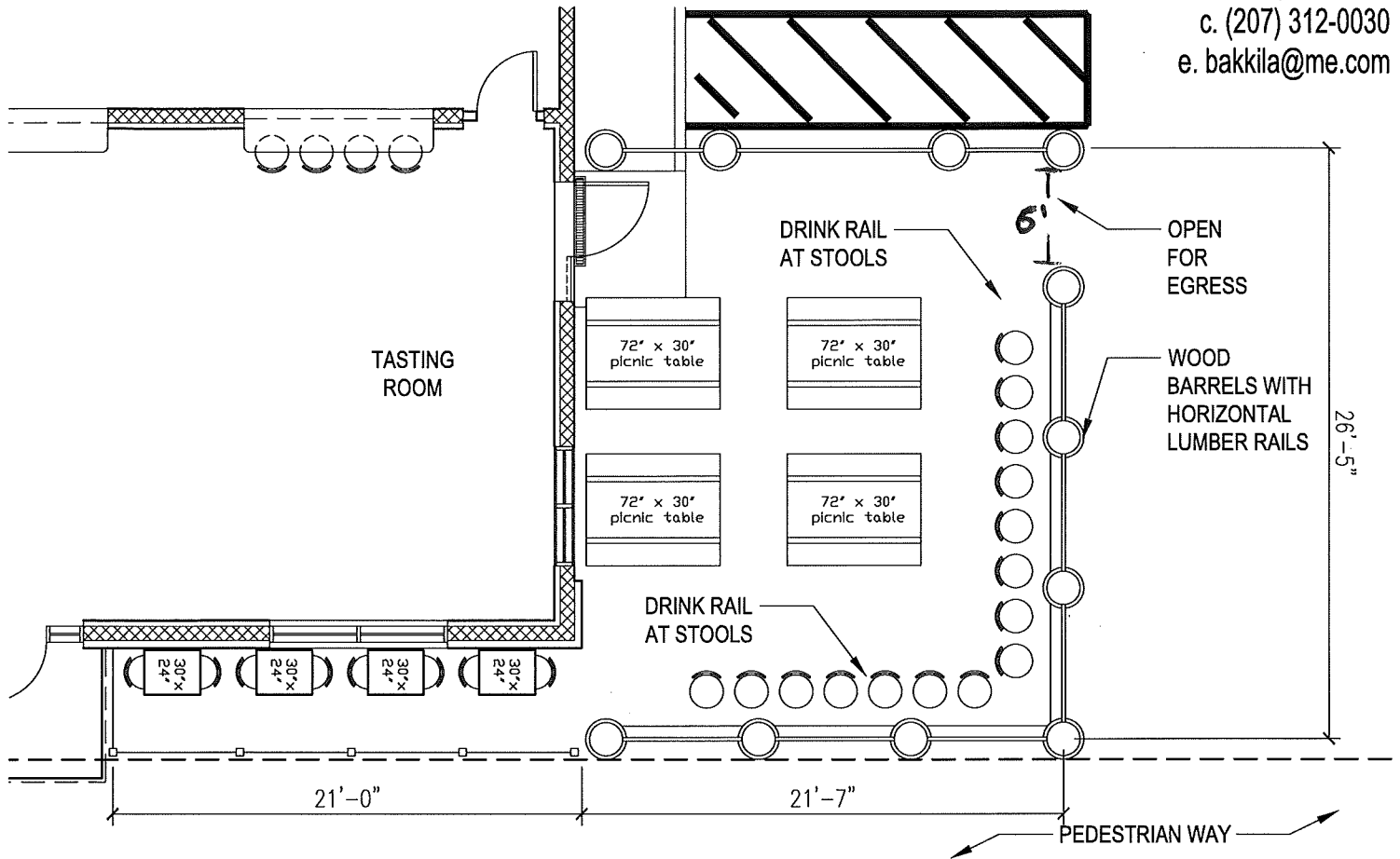
PROJECT NUMBER

SK-01

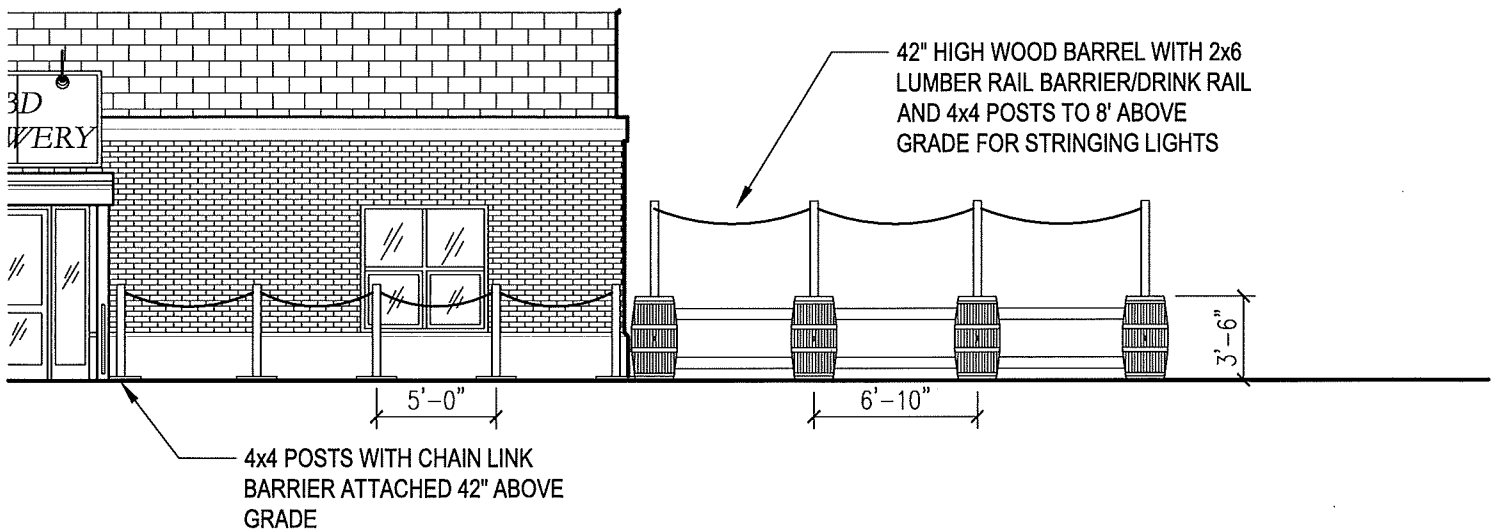
SKETCH NUMBER

CHRIS BAKKILA, RA

c. (207) 312-0030
e. bakkila@me.com



COVE TREET OUTDOOR SEATING PLAN DETAIL



OUTDOOR SEATING ELEVATION

MARSHVIEW LLC, BREWERY
& TASTING ROOM

PLOT PLAN

1" = 1'-0"

18004

PROJECT NAME

SKETCH TITLE

SCALE

PROJECT NUMBER

SEATING PERMIT

01/30/2019

A6.1

SK-02

ISSUED WITH

DATE

DRAWING REFERENCE

SKETCH NUMBER

Proposed Food Menu

Pre-packaged snacks

Chips and Popcorn

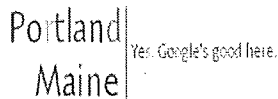
Mixed Nuts

Train Mix

Pre-packaged Nosh

Cheese and crackers

Charcuterie



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Brewery Extrava-66 Cove Street

amachado <amachado@portlandmaine.gov>

Tue, Feb 12, 2019 at 11:06 AM

To: Zoning <zoning@portlandmaine.gov>

Cc: bnp@portlandmaine.gov, dbuck@portlandmaine.gov, nicholsd@portlandmaine.gov, petrucellid@portlandmaine.gov, ecobb@portlandmaine.gov, jjs@portlandmaine.gov, brennanj@portlandmaine.gov, kevindc@portlandmaine.gov, lac@portlandmaine.gov, sreynolds@portlandmaine.gov, tw@portlandmaine.gov, treasury@portlandmaine.gov, vwm@portlandmaine.gov, jmb@portlandmaine.gov, jhanscombe@portlandmaine.gov

66 Cove Street is located in the I-Lb zone. Under section 14-232(a) a brewery is allowed and a tasting room is allowed as an ancillary use to the brewery.

Ann Machado
Zoning Administrator

On Tuesday, February 5, 2019 at 10:08:46 AM UTC-5, Jessica Hanscombe wrote:

Good Morning

Please see the attached application. This will go before council on 3/4 for approval. Please advise.

Thanks Jessica

Jessica Blais Hanscombe

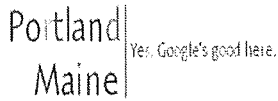
Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov



Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Re: Brewery Extrava-66 Cove Street

Kevin Cashman <kevindc@portlandmaine.gov>

Tue, Feb 5, 2019 at 4:45 PM

To: Jessica Hanscombe <jhanscombe@portlandmaine.gov>

Cc: Benjamin Pearson <bnp@portlandmaine.gov>, Danielle Buck <dbuck@portlandmaine.gov>, David Nichols <nicholsd@portlandmaine.gov>, David Petruccelli <petruccellid@portlandmaine.gov>, Eric Cobb <ecobb@portlandmaine.gov>, James Sweatt <jjs@portlandmaine.gov>, John Brennan <brennanj@portlandmaine.gov>, Laurie Carlson <lac@portlandmaine.gov>, Scott Reynolds <sreynolds@portlandmaine.gov>, Tom Williams <tw@portlandmaine.gov>, Treasury Division <treasury@portlandmaine.gov>, Vernon Malloch <vwm@portlandmaine.gov>, Zoning <zoning@portlandmaine.gov>, Jeanie Bourke <jmb@portlandmaine.gov>

PD has no objections.

Kevin C.

On Tue, Feb 5, 2019 at 10:08 AM Jessica Hanscombe <jhanscombe@portlandmaine.gov> wrote:

Good Morning

Please see the attached application. This will go before council on 3/4 for approval. Please advise.

Thanks Jessica

Jessica Blais Hanscombe

Licensing and Registration Coordinator

389 Congress Street Room 307

Portland, Maine 04101

207-874-8783

jhanscombe@portlandmaine.gov

--

Lt. Kevin Cashman

Portland Police Department

Patrol Division

109 Middle St

Portland, Maine 04101

(O) 207-756-8294

kevindc@portlandmaine.gov.

Hours - Saturday thru Tuesday (4pm-2am)



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

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D873866

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-05) :

Inquiries Name(s) CHARLENE DOHERTY (1969-07-05)

NO MATCH WAS FOUND FOR YOUR REQUEST.



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

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D873872

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-05) :

Inquiries Name(s) **MICHAEL LACHARITE (1960-06-12)**

NO MATCH WAS FOUND FOR YOUR REQUEST.



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

JESSICA HANSCOMBE
389 CONGRESS ST.
PORTLAND, ME 04101

Transaction Response #: MIQ99D873868

Criminal History Record

Introduction

This criminal history record was produced in response to the following request (Produced on 2019-02-05) :

Inquiries Name(s) JOSEPH DOHERTY (1967-06-13)

NO MATCH WAS FOUND FOR YOUR REQUEST.

Portland, Maine



Yes. Life's good here.

Permitting and Inspections Department
Michael A. Russell, MS, Director

February 12, 2019

Marshview LLC
16 Jones Creek Dr
Scarborough ME 04074

Re: Marshview LLC dba Brewery Extrava. Application for a Brewery with Entertainment without Dance and Outdoor Dining on Private Property at 66 Cove Street.

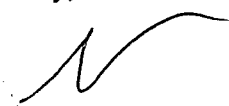
Dear Joe Doherty,

This letter shall serve as a reminder of the public hearing before the Portland City Council on **Monday March 4, 2019 at 5:30 p.m.**, for the review of application for a Brewery with Entertainment without Dance and Outdoor Dining on Private Property at 66 Cove Street. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the city council has questions regarding the license application. If there is no representation and questions arise, the item may be postponed.

Please contact our office directly with questions at (207) 874-8557 or jhanscombe@portlandmaine.gov.

Sincerely,



Jessica Hanscombe
Licensing and Registration Coordinator

Legal Advertisement

Notice of Public Hearing City of Portland

A Public Hearing will be held on March 4, 2019 at 5:30 P.M., in City Council Chambers, 389 Congress St., Marshview LLC dba Brewery Extrava. Application for a Brewery with Entertainment without Dance and Outdoor Dining on Private Property at 66 Cove Street. Sponsored by Jon P. Jennings, City Manager.

MEMORANDUM
City Council Agenda Item

FROM:

DATE: February 19, 2019

SUBJECT: **Order 161-18/19 Amendment to the Zoning Map Re: Section of Forest Avenue to Community Business B-2B - Sponsored by the Planning Board, Sean Dundon, Chair.**

SPONSOR: Portland Planning Board, March 22, 2016 Vote: 6-1

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

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

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

PRESENTATION: Sean Dundon, Chair, Portland Planning Board, 5 minute oral presentation.

I. SUMMARY

The Planning Board recommends (6-1) a zoning map amendment to rezone a portion of Forest Avenue from Residential R-5 and Community Business B-2 to B-2b in the vicinity of Preble Street, Baxter Boulevard and Bedford Street.

II. AGENDA DESCRIPTION

In 2016, the City Council supported Councilor Ray's motion to have the Planning Board consider a zoning map amendment from the current Community Business B-2 zone and the Residential R-5 zone to the Community Business B-2b zone. The referral asked the Planning Board for a recommendation on whether the B-2b, which promotes a more urban form and limits drive-throughs, is a more appropriate zone for this area.

The Planning Board considered the Council Request and held the public hearing on March 22, 2016. The Planning Board voted (6-1, Whited opposed) to recommend to City Council the adoption of the zoning map amendment to rezone a portion of Forest Avenue to Community Business B-2b. Lisa Whited opposed the map amendment, preferring a holistic solution to addressing auto related businesses and for transforming Forest Avenue. The majority of the members supported the map amendment and agreed with Ms. Whited that further analysis of the B-2 zones and drive-throughs was warranted. The Board's recommendation for the drive-through text amendments to the B-2 zones are coming forward concurrently with the recommended map amendment. The text amendments would re-introduce the drive-through use in the B-2b zone, subject to the use being associated with the bank or pharmacy in a minimum of a 3 story building with the majority of the upper floors in residential use (a minimum of 3 dwelling units).

This item must be read on two separate days. It received its first reading on February 20, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The current zoning in the block bounded by Baxter Boulevard, Preble Street Extension and Forest Avenue includes Recreation and Open Space (ROS), Residential R-5 and Community Business B-2. Pedros Field is a public ballfield located within the block zoned Recreation and Open Space (ROS) and it is not part of the

proposed zoning map amendment. The R-5 portion of the block runs along the Preble Street extension and in general, R-5 flanks either side of the B-2b zone along Forest Avenue. The R-5 zone is a moderate density residential zone allowing single and two-family homes, planned residential unit developments and multiplexes. There are no residential buildings within the area proposed to be rezoned to B-2b.

The B-2 zone in this vicinity has a mix of uses, including office buildings, retail uses, personal service businesses, and 70 residential units above first floor commercial at 331-337 Forest Avenue. It extends across Forest Avenue to incorporate the Oakhurst dairy and extends up Bedford Street where commercial uses were once located that are now within the USM campus. The B-2 zone is also located between Baxter Boulevard and I-295 where this is a mix of office and retail uses fronting on Baxter Boulevard, including the Hannaford Shopping Center.

Currently, the B-2b zone is located on either side of the Forest Avenue corridor from the intersection of Preble and Forest Avenue through Woodford's Corner. The proposed map amendment extends the abutting B-2b zone from Preble Street toward I-295 to the Hannaford entrance and includes the corner lot on Bedford and Forest.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

The Portland's Plan 2030 includes the following economic and housing goals that are relevant to the proposed text amendments:

- Create economic prosperity by growing Portland's tax and employment base.
- Invest in, attract, and retain human capital to support a growing economy.
- Respect that our unique quality of place is key to our current and future economic success.
- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.
- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.

Prior to the adoption of Portland's Plan, the Transforming Forest Avenue (corridor study of Forest Avenue from Park Avenue through Woodfords Corner) was adopted by the City Council and it included recommendations for land use, transportation, and streetscape alternatives based upon a community process and best practices for transit supportive development. Compact development increases the concentration of uses and structures in the built environment is identified as a strategy to support transit supportive development (TSD).

The purpose of B-2b zone is to promote development to be located close to the street and have a more compact urban development pattern. It is recommended for locations "on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character." The proposed B-2b map amendment promotes compact development patterns and serves to implement the goals of the Portland's Plan 2030 and Transforming Forest Avenue.

V. FINANCIAL IMPACT

The proposed zoning amendments do not have a direct fiscal impact to the City.

VI. STAFF ANALYSIS AND BACKGROUND

Portland's Plan 2030 was adopted after the analysis was completed for the map amendment. The adopted goals and policies of the Comprehensive Plan strengthen the vision for Forest Avenue to create a denser urban

corridor with more transit supportive development. The comprehensive plan encourages additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.

Transforming Forest Avenue was adopted by the City Council on June 4, 2012 and it included recommendations for land use, transportation, and streetscape alternatives based upon a community process and best practices for transit supportive development (TSD). Encouraging vibrant and diverse land uses is an important principle of TSD development in order to provide multiple destinations in close proximity within an area. The report notes that while B-2 and B-2b currently support mixed uses, many of those uses have not located along the corridor. The report also points out that the transitions between the commercial and residential areas may require attention in order to achieve adequate buffers without limiting commercial activity. The development pattern should “provide for vibrant loci or activity at a pedestrian scale.” Architectural quality, high quality parking, and public spaces are other land use components that are identified as components for creating a high-quality transit corridor.

Compact development that increases the concentration of uses and structures in the built environment is identified as a strategy to support TSD. Thus, the proposed B-2b map amendment supports the vision for the Forest Avenue by extending the zone along Forest Avenue and it creates a connection for the more urban form of development between the peninsula and the existing Forest Avenue B-2b zone.

VII. RECOMMENDATION

At the March 22, 2016 public hearing the Planning Board voted (6-1, Whited opposed) proposed rezoning of the R-5 and B-2 zones to B-2b is consistent with the Comprehensive Plan for the City of Portland; and recommends to the City Council approval of the zoning map amendment.

VIII. LIST ATTACHMENTS

1. Amendment to Zoning Map Forest Avenue to Community Business B-2b 2.20.2019
2. Report and Attachments (B-2 Map Amendment)

Prepared by:

Date: 02/19/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

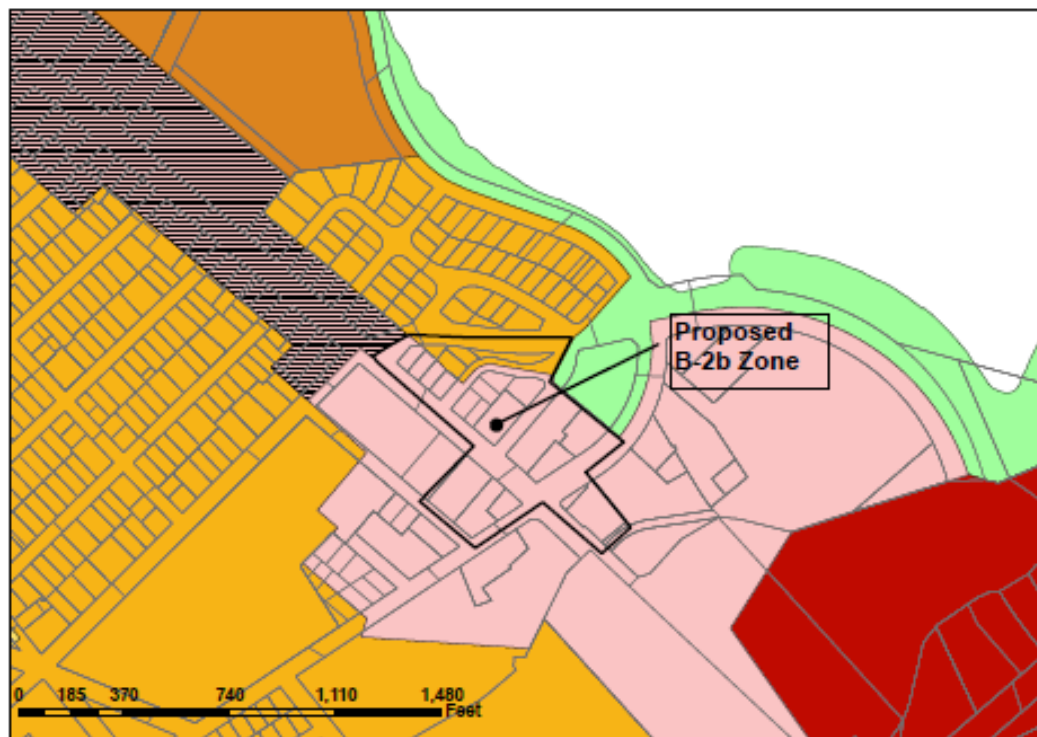
**CITY OF PORTLAND
IN THE CITY COUNCIL**

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**AMENDMENT TO ZONING MAP
RE: SECTION OF FOREST AVENUE TO COMMUNITY BUSINESS B-2B**

**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 a section of Forest Avenue from the Hannaford entrance road to Bedford Street to Preble Street from R-5 and B-2 Zones to the Community Business B-2b Zone, as shown in the map below.



**Proposed B-2b Forest Avenue
February 2019**



CITY COUNCIL REPORT FROM PLANNING BOARD PORTLAND, MAINE

Zoning Map Amendment from B-2 and R-5 to Community Business B-2b

Map Amendment for Forest Avenue in the vicinity of Baxter Boulevard, Preble Street Extension and the northerly side of Forest Avenue, and at the intersection of Forest Avenue, Baxter Boulevard and Bedford Street.

City of Portland Applicant

Submitted to: City Council First Reading Date: Feb. 20, 2019 Second Reading: March 4, 2019	Prepared by: Barbara Barhydt, Development Review Services Manager Date: February 1, 2019
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I. INTRODUCTION

On February 1, 2016, Councilor Ray moved to have the Planning Board consider a zoning map amendment from the current Community Business B-2 zone and the Residential R-5 zone to the Community Business B-2b zone. The City Council voted unanimously to refer this item to the Planning Board for a recommendation regarding the proposed map amendment. The City Council is asking the Board to consider whether the B-2b, which promotes a more urban form of development is a more appropriate zone for this area and excludes or limits drive-throughs.

The Planning Board considered the Council Request and held the public hearing on March 22, 2016. The Planning Board voted (6-1, Whited opposed) to recommend to City Council the adoption the zoning map amendment to rezone a portion of Forest Avenue to Community Business B-2b as shown below. Lisa Whited opposed the map amendment, as a piecemeal solution to addressing auto related businesses and she supported a more holistic approach for transforming Forest Avenue. The majority of the members supported the map amendment and agreed with Ms. Whited that further analysis of the B-2 zones and drive-throughs was warranted. The Board's recommendations for the drive-through text amendments to the B-2 zones address the concerns raised by Ms. Whited and the Board. Those amendments are coming forward concurrently with the recommended map amendment. The text amendments will re-introduce the drive-through use in the B-2b zone, subject to the use being associated with a bank or pharmacy in a minimum of a 3-story building with the majority of the upper floors in residential use (a minimum of 3 dwelling units).

There are no pending development review applications for the properties in this area; however, interest in potential redevelopment has been brought to the attention of the City. Concurrently, there are a number of buildings, which have been identified as potentially eligible for designation following a historic preservation analysis recently commissioned by Greater Portland Landmarks entitled *Forest Avenue and Stevens Avenue: Historic Context*. The Historic Preservation Board review and recommendations will be forwarded to the City Council within the coming months.

Notices will be sent for the Council's March 4th public hearing. The Planning Board public notice of the public hearing appeared in the Portland Press Herald on March 7 and 14th and 105 notices were sent by mail and by e-mail to property owners and interested citizens. The neighborhood meeting was held on March 10, 2016 and the packet is included as Attachment 1. There is one piece of written comment that was submitted at the neighborhood meeting. Public comment has also been submitted by Mary Costigan and Sandra Guay (Attachment 2).

II. EXISTING CONDITIONS & SITE SELECTION

The section of Forest Avenue between Baxter Boulevard and Preble Street extension contains a range of uses. The development in this block faces Forest Avenue with parking in the rear, which can be seen from Preble Street Extension. There is one curb cut that serves the parking areas off Preble with all other access points off Forest Avenue. The city's zoning map lists the accessways as Bank and Fenwick Roads. The businesses along Forest Avenue include: office buildings, retail uses, a bar, personal service businesses, and 70 residential units above first floor commercial at 331-337 Forest Avenue.

Pedros Field is a public park and ballfield, which is located at the intersection of Preble Street extension and Baxter Boulevard. This portion of the block is not including within the proposed zone change.

The B-2 zone is located across Forest Avenue from the proposed area for rezoning. The uses include the Oakhurst Dairy and a multiple tenant retail building on the corner of Forest and Bedford (owned by Oakhurst Dairy). An aerial obtained from Google is included as Figure 1. In general, office uses facing Baxter Boulevard are located across from this block, as is an entrance drive to the Hannaford plaza. A residential neighborhood is located on the opposite side of the Preble Street extension and the university credit union is located at the corner of Preble and Forest.



Figure 1: Aerial

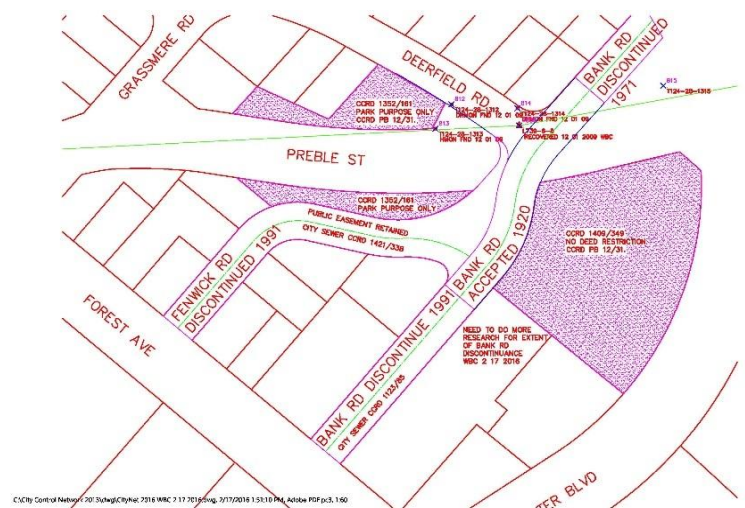


Figure 2: Street Status

The block being considered for rezoning shows Fenwick Road and Bank Road, which appear to be former public streets. Fenwick Road was discontinued in 1991 with a public easement retained for the city sewer line. A portion of Bank Road was discontinued in 1991 and a section leading to Preble Street was accepted in 1920. It appears that this portion remains a public street. The status of the streets, as shown in Figure 2, is preliminary information based upon the City's records at the Department of Public Works.

III. BACKGROUND AND EXISTING ZONING

The current zoning in the block bounded by Baxter Boulevard, Preble Street Extension and Forest Avenue includes Recreation and Open Space (ROS), Residential R-5, and Community Business B-2 (refer to Figure 3). Pedros Field is a public ballfield located within the block and is zoned Recreation and Open Space (ROS) and it is not part of the proposed zoning map amendment. A portion of the block includes the Residential R-5 Zone running along the Preble Street extension. Generally, residential neighborhoods that flank either side of Forest Avenue are zoned Residential R-5.

The B-2 commercial area contains a mix of commercial and residential uses including office buildings, retail uses, personal service businesses, and 70 residential units above first floor commercial at 331-337 Forest Avenue. The Community Business Zone extends across Forest Avenue to incorporate the Oakhurst dairy and extends up Bedford Street. Commercial uses were located in this area at one time, but the area is now owned and occupied by the University of Southern Maine and within the USM overlay zone. The B-2 zone is also located between Baxter Boulevard and I-295 where this is a mix of office and retail uses fronting on Baxter Boulevard, including The Hannaford Shopping Center.



Figure 3: Existing Zoning

The Community Business B-2b zone runs along either side of Forest Avenue from the intersection of Preble and Forest Avenue through Woodford's Corner. The proposed map amendment is adjacent to the existing B-2b zone where it terminates at the Preble Street extension.

History of B-2 Zoning Along Forest Avenue

1. The B-2b zone was created in 1999 based upon a recommendation of the Nason's Corner/Outer Brighton Avenue Study to increase the compatibility between commercial districts and residential neighborhoods. The B-2b was instituted as a new zone "designed to preserve the more compact urban development of Portland". At the same time amendments were made to the B-2 to allow residential uses and to make major and minor offices uses conditional, allow dairies and bakeries as permitted uses if in existence before 1999, and limit new bakeries in the B-2b to no more than 7,000 s.f.
2. The Forest Avenue Corridor between Preble Street Extension and through Woodford's Corner was zoned from Community Business B-2 to B-2b in 1999. The B-2b zone was considered for the section of the corridor from the Preble Street Extension to I-295, but the area between I-295 and the Preble Street extension remained within the B-2 zone due to the type and scale of uses in this area at that time.
3. The 1999 revisions created a conditional use designation for all drive-throughs in the B-2 near residential zones, as opposed to merely for restaurants uses. Drive-throughs in the newly created B-2b were only allowed if accessory to a permitted principal use. Additional conditional use standards were added for drive-throughs relating to location, noise, screening, pedestrian access and hours. At that same time auto uses became conditional uses in the B-2 zone and these auto uses were prohibited in the B-2b, except for pre-existing minor auto uses.
4. Additional revisions were adopted in early 2000. As described in in the March 24, 2000 City Council Agenda Request, the proposed B-2b text amendments for off peninsula locations would:

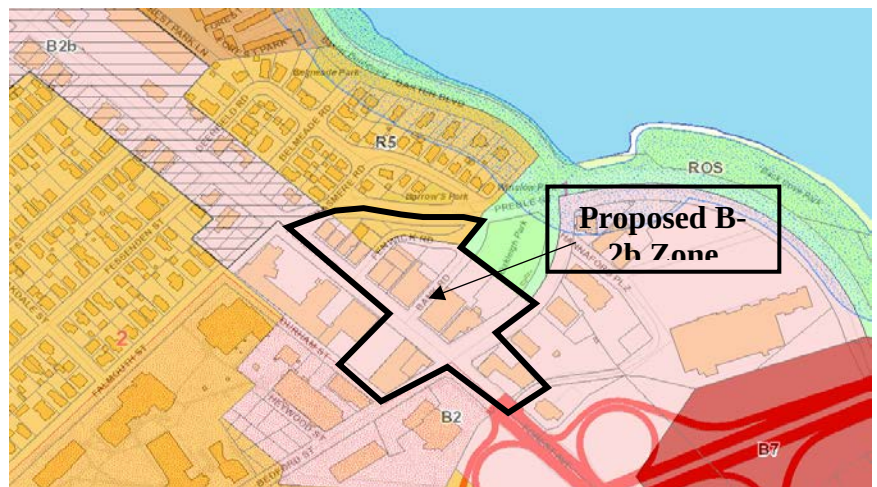
“allow new structures to be placed no further back than the average depth of the front yards of adjoining buildings. Currently, B-2b requires structures to meet a ten (10) foot build-to line and this would remain for on-peninsula locations. The proposed off-peninsula B-2b front yard setback is the same standard as found in the B-2 zone.”

These changes were adopted on April 24, 2000.

5. In 2005, the Council adopted the the B-2C zone which essentially mirrored the B-2 but excluded establishments that served liquor for a portion of Forest Avenue in the vicinity of Woodfords Corner.
6. In 2010, amendments were adopted increasing density of B-2 and B-2b zones on-peninsula to current levels, adding housing to the zones purpose statements and clarifying some language. As reflected in the Planning Report #02-10, dated January 22, 2010, the most significant change was establishing a lot area per dwelling unit of 435 s.f., which was equivalent to the R-7 density. Dimensional requirements were updated to encourage infill development on these “rear yards by allowing relief for lots with less than 40 feet of frontage and depth of more than 100 feet and/or 20 feet of front yard and a remaining frontage of less than 40 feet was added.
7. Changes were made in 2011 to clarify language concerning the proximity of drive-thrus to residential zones and to add language about wind energy facilities in 2013.
8. July, 2014, the council adopted changes to the B-2, B-2b and B-2c resulting greater allowance of multi-family housing in all B-2 derivative zones with the previously existing qualification that multi-family was only allowed when abutting higher density residential zones (R-4 and up). A stronger prohibition on front yard parking was included for the same reasons. A table was added to simplify the dimensional requirements which also made significant changes to the zones dimensional requirements. These changes included reducing the maximum front yard setback to 10 feet, reducing street frontage, reducing lot area for projects off peninsula with active street frontages to 435 s.f. Lastly, a new section, 14-188, was added under the premise that rather than mandating ground floor commercial uses active street frontage requirements would better accomplish the goals of vibrant street life and accordingly, a density bonus of 435 s.f. was added.
9. Lastly, drive-throughs were eliminated as an allowed use in the B-2b in 2014. The intent was to require neighborhood and community retail built close to the street and to promote a pedestrian scale and character. A technical change to step backs was also made.

IV. RECOMMENDED MAP AMENDMENT

The proposed zoning map amendment is to rezone the B-2 zone and the R-5 zone to B-2b, as shown in the insert. The proposal is to extend the current B-2b zone on Forest Avenue from the Preble Street extension (where the existing B-2b terminates) toward I-295 to the Hannaford Plaza entrance. The proposed map amendment also includes the developed site at the corner of Forest Avenue and Bedford Street.



The Planning Board held the public hearing on March 22, 2016. The

Planning Board voted (6-1, Whited opposed) to recommend to City Council the adoption the zoning map amendment to rezone a portion of Forest Avenue to Community Business B-2b as shown here. Lisa Whited opposed the map amendment, as a piecemeal solution to addressing auto related businesses and she supported a more holistic approach for transforming Forest Avenue. The majority of the members supported the map amendment and agreed with Ms. Whited that further analysis of the B-2 zones and drive-throughs was

warranted. The Board’s recommendation for the drive-through text amendments to the B-2 zones address the concerns raised at that time and offer an innovative solution for development along the corridor. The text amendments are coming forward to the City Council concurrently with the recommended map amendment. The text amendments would re-introduce the drive-through use in the B-2b zone, subject to the use being associated with a bank or pharmacy in a minimum of a 3-story building with the majority of the upper floors in residential use (a minimum of 3 dwelling units).

V. ZONING COMPARISON

A. Purpose Statements

The R-5 zone is a medium density residential area that is characterized by single family and low-intensity multi-family development. The B-2 Zone is intended to provide areas for a mix of commercial and residential uses, which have a greater intensity than the business uses permitted in the neighborhood business zone. The types of uses articulated in the purpose statement of the B-2 zone include “ grocery stores, shops and services located in major shopping centers and along arterial streets.” Generally, the B-2 zone is found along Portland’s major transportation corridors with residential neighborhoods adjacent to the zone. Thus the intent of the zone states that development should relate to the surrounding neighborhoods by design, orientation, and circulation patterns. Both the B-2 and B-2b provide for moderate to high density housing development.

The B-2b is part of the B-2 zone and varies in some ways from the zone. The purpose statement highlights that the development should be close to the street and have a more compact urban development pattern. It is recommended for locations “on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character.” The purpose statements of the R-5 zone and the B-2, B-2b and B-2c are listed in Table 1 below.

Zone	Purpose
Residential R-5	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.
Community Business B-2	1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community. 2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone. 3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns. 4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.
Community Business B-2b	The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.

B. Permitted and Conditional Uses

Following is a chart of the permitted uses for the R-5, B-2 and B-2b zones. Again, the R-5 zone is a moderate density residential zone, thus the permitted uses include single and two family homes, handicapped family units, planned residential unit developments and multiplexes. The permitted residential uses in the B-2 and B-2b zone allow for many of the same residential uses, but the zones also permits higher density housing, such as multifamily development, combined living/working spaces, and lodging houses.

The R-5 zone does not permit business uses. The B-2 and B-2b zones share most of the same permitted and conditional uses. A significant difference is that drive-throughs are not listed as permitted or conditional uses in the B-2b zone, which is a recent change that was adopted on November 17, 2014. Drive-throughs are listed as a permitted use in the B-2 and as a conditional use in the B-2 zone when the site is adjacent to a residential zone. These provisions are the subject of the pending text amendments before the City Council.

Table 2: Permitted and Conditional Uses

Permitted Uses				
Residential		R-5	B-2	B-2b
	Single-family and two-family dwellings	•	•	•
	Multi-family dwellings		•	•
	Handicapped family units	•	•	•
	Single-family single- or multiple-component manufactured housing	•		
	Combined living/working spaces		•	•
	Lodging houses		•	•
	PRUDs	•		
	Multiplex development	•		
Institutional		R-5	B-2	B-2b
	Schools		•	•
	Clinics		•	•
	Places of assembly		•	•
	Long term, extended and intermediate care facilities		•	•
	Governmental buildings and uses/municipal uses	•	•	•
	College, university or trade schools		•	•
	Nursery schools, kindergartens			
	Day care facilities		•	•
Business		R-5	B-2	B-2b
	General, business, & professional offices		•	•
	Personal services		•	•
	Business services			
	Offices of building tradespeople		•	•
	Retail establishments		•	•
	Restaurants (close at 11)		•	•
	Drinking establishments (not allowed in B-2c)		•	•
	Billiard parlors		•	•
	Mortuaries or funeral homes		•	•
	Miscellaneous repair services, excluding motor vehicle repair		•	•
	Communication studios or broadcast and receiving facilities		•	•
	Health clubs and gymnasiums		•	•
	Veterinary hospitals (excluding outside kennels)		•	•
	Theaters		•	•
	Hotels of less than 150 rooms		•	•
	Dairies and bakeries in existence as of Nov 15, 1999		•	•
	Bakeries after 1999, must have a retail component and bakeries		•	•

	in the B-2b shall be no greater than 7,000 sf in size			
	Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. ..“adjacent to” shall include uses across a street if within 100 feet of the subject lot boundary;		•	
	Registered medical marijuana dispensaries		•	•
	Commercial kitchens provided it includes retail sales or tasting room. Commercial kitchens shall be no greater than 7,000 sf in B-2b		•	•
Other		R-5	B-2	B-2b
	Accessory uses	•	•	•
	Municipal uses	•		
	Parks	•		
	Home occupation	•	•	•
	Studios for artists and craftspeople – not to exceed 4000 sf studio space		•	•
	Special needs independent living units	•	•	•
	Bed and breakfasts		•	•
	Hostels		•	•
	Wind energy systems	•	•	•
	Utility substations		•	•
Conditional Uses				
Residential		R-5	B-2	B-2b
	Sheltered care group homes	•		
	Additional accessory dwelling units	•		
	Alteration of non-residential structure to 3+ dwelling units	•		
	Use space existing as of 9-3-08 to accommodate additional dwelling units	•		
	Conversion of multi-family structure to lodging house	•		
Institutional		R-5	B-2	B-2b
	Schools	•		
	Long-term and extended care facilities	•		
	Intermediate care facility	•		
	Places of assembly	•		
	Hospitals	•		
	Nursery schools and kindergartens			
	Day care facilities	•		
	College, university, trade schools	•		
Business		R-5	B-2	B-2b
	Major and minor auto service stations		•	
	Major and minor auto service stations if in existence as of 1999			•
	Car washes		•	•
	Drive-throughs adjacent to residential uses or zones		•	
	Automobile dealerships		•	•
Other		R-5	B-2	B-2b
	Utility substations	•		
	Professional offices			
	Chancellery			
	Off-street parking	•		
	Temporary wind anemometer towers	•	•	•
	Wind energy systems	•	•	
	Printing and publishing establishments		•	•
	Wholesale distribution establishments		•	
	Research and development and related production		•	•

	establishments			
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C. Dimensional Standards

The dimensional standards for the R-5 zone focus on the residential form for a moderate density area. The B-2 and B-2b zone are similar in their lists of permitted and conditional uses, as well as their dimensional standards. A comparison of the dimensional standards is contained in Table 3. Dimensional Standards.

Table 3. Dimensional Standards

Standard	R-5 ¹	B-2	B-2b
Minimum Lot area per dwelling unit	3,000 sf, except 3,600- 4,800 sf for special needs independent	none	none
Street Frontage	50 feet	20 ft	20 ft
Minimum Lot Width	60 feet, except 90 for multiplex	none	none
Minimum Front Yard	20, except average depth if less than 20		
Maximum Front Yard	N/A	10 ft, Bd may grant waiver for irregular lots with less than 40 ft of frontage (Building Additions do not have to meet this section)	10 ft, Bd may grant waiver for irregular lots with less than 40 ft of frontage (Building Additions do not have to meet this section)
Minimum Rear Yard	20 feet	10 ft, accessory structures, 5 ft	10 ft, accessory structures, 5 ft
Minimum Side Yard	8-15 feet, depending on building height and location	None, accessory structures, 5 ft	None, accessory structures, 5 ft
Minimum Side Yard on Side St		None	None
Structure Height	35 feet	45 ft, 50 ft if 1 st floor commercial is whole or partially commercial use	45 ft, 50 ft if 1 st floor commercial is whole or partially commercial use
Structure Stepbacks		Portions of a structure above 35 feet shall be no closer than 5 feet from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.	Portions of a structure above 35 feet shall be no closer than 5 feet from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.
Maximum Lot Coverage (building coverage)	40%		
Maximum Impervious Surface	N/A	Residential uses – none All permitted uses - 80%	Residential uses – none All permitted uses - 90%
Minimum Lot Area per Dwelling Unit		a. Off-peninsula locations, as defined in section 14-47: 1,500 SF, except as provided for in (b) below. b. On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 SF	a. Off-peninsula locations, as defined in section 14-47: 1,500 SF, except as provided for in (b) below. b. On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 SF.

¹ Additional restrictions on the number of dwelling units apply to the PRUD standards and separate requirements for small residential lot development may apply

The history of the B-2 zone outlines the text amendments that have occurred over time, which have brought the B-2 zone in alignment with the more urban based parameters of the B-2b zone. Currently, both B-2 and B-2b have a maximum front yard setback of 10 feet (does not apply to building additions), which was not the case before the B-2 update in 2014. Prior to that update, only the B-2b zone had a maximum front yard setback requirement. In both the B-2 and B-2b zones, there is a provision that allows the Planning Board to grant waivers of the maximum front yard setback for irregular lots with less than 40 feet of frontage. In such cases, no maximum setback is required, but where setbacks exceed 10 feet then a continuous, attractive, and pedestrian-scaled edge treatment shall be constructed along the street.

There is no maximum impervious surface ratio for residential uses, but for all other permitted uses the maximum coverage is 80% in the B-2 zone and it is 90% in B-2b. There is also a distinction between the allowable residential density for both B-2 and B-2b, which is tied to whether a site is on-peninsula or off-peninsula. The density is 1,500 sf per unit off-peninsula, unless the project has active street frontage as defined. The density is 435 sf per unit on-peninsula or for those projects with active street frontage. The B-2 zone is predominantly located off-peninsula and the B-2b is on-peninsula and along a portion of the Forest Avenue corridor.

VI. SITE PLAN STANDARDS AND DESIGN STANDARDS

Under the site plan standards of the Site Plan Ordinance (Section 14-526) there are zoning related design standards under subsection (d). The general provision states:

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:

Subparagraph iii relates to the B-1 and B-2 zones as follows:

(iii) B1, B1-b, B2, B2-b Zones: Development in the B1, B1-b, B2 and B2-b business zones shall provide an established street wall with entrances and public portions of the building oriented to and directly accessible from the public sidewalk and shall be designed and scaled to be compatible with surrounding residential and commercial development as demonstrated by compliance with all applicable design standards listed in the Design Manual.

The standard does state that development in the B-2 zones shall provide a street wall with entrances and public portions of the building oriented to the street and other provisions, as demonstrated by compliance with all applicable design standards listed in the Design Manual.

The Design Manual contains the design standards, which are presented in the chart below.

The design standards for the urban street wall and building entrances are not required for projects within B-2; however, the standards cross reference the design guidelines and encourages development in the B-2 zone to meet both of these standards. The B-1 and B-2 Design guidelines are contained in Appendix 2 of the Design Manual, which are intended to illustrate how development may meet the specific standards. The guidelines are shown below the design standards. The sections pertaining to urban street wall and entrances are highlighted.

Portland Design Manual		
Design Standards	Applicability of Design Standards –	
	B-2	B-2b
<u>Urban Street Wall:</u> ...buildings shall be located to create and preserve an urban street wall.		Required
<u>Mixed Uses:</u> ...buildings shall be multi-storied with mixed uses. (B-1- only)		
<u>Building Entrances:</u> ...building entrances shall be oriented toward, located adjacent to, and directly accessible from a sidewalk in a public right-of-way.		Required
<u>Windows:</u> ... windows shall be required along the street frontage of a building. Windows shall be transparent (with a visible transmittance (VT) of 0.7 or greater) and installed at a height to allow views into the building by passerby.	Required	Required
<u>Facade Character:</u>active and public portions of buildings (e.g. doors, windows, entries, retail displays) <u>shall be oriented to and, where possible, be located adjacent to the public sidewalk</u> to create an active presence along the sidewalk. (1) Where building facades situated along a public way have no interactive use or function, such facades shall be designed to provide sufficient architectural and graphic amenities to provide visual interest along the street and relate the building, and its use to passerby.	Required	Required
<u>Building Design:</u> ... commercial buildings shall be designed to be compatible with their residential and commercial neighbors. In the B-1 and B-1b zones building scale, roof pitch, and fenestration shall be designed to complement surrounding residential structures.	Required	Required
<u>Building materials:</u> Façade materials of buildings located in the B-1, B-1b B-2, and B-2b zones shall be compatible with those materials of surrounding residential and commercial uses.	Required	Required
<u>Building Scale:</u> In the B-1 and B-1b zones building scale must relate and be compatible with surrounding residential structures.		
<u>Landscaping and buffers:</u> In the B-1, B-1b, B-2 and B-2b zones buildings and associated parking areas must be screened to buffer abutting properties. A densely planted landscape buffer and/or fencing will be required to protect neighboring properties from the impacts associated with the development, including lighting, parking, traffic, noise, odor, smoke, or other incompatible uses. Where buildings are setback from the street, a landscaped area must be planted along the front yard street line.	Required	Required
<u>Guidelines</u>		
Please refer to Appendix 2 of this manual, the B-1, B-1b, B-2, B-2b Design Guidelines, for applicable design guidelines for the B-1 and B-2 zones. In addition, the following design guidelines shall also apply.		
1. Buildings located in the B-2 zone are specifically <u>encouraged</u> to adhere to the design guidelines contained in the B-1, B-1b, B-2, B-2b Design Guidelines (Appendix 2) of this section concerning the creation and preservation of an <u>urban street wall</u> .		

2. In the B-1b and B-2 zones, buildings are specifically <u>encouraged</u> to adhere to the guidelines contained in the B-1, B1b, B-2, B-2b Design Guidelines (Appendix 2) of this section concerning <u>building entrances</u> .		
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Appendix 2 Guidelines
Development in the B-1, B-1b, B-2, B-2b shall meet the following guidelines in order to meet the Site Plan Standards
1. Building Location and Form
<u>Buildings shall be located near the street so as to create an urban street wall.</u> An urban street wall is created by a pattern of buildings which line the street in a consistent manner, thereby establishing a desirable spatial relationship between the building in the commercial district and the major object. Location is one of several related factors defining the street environment.
<u>Building Form, including height, bulk, and massing, contribute to the development of a street wall.</u> The desired condition is to have the building frame and enclose the street, which is achieved by providing building height that is proportionate to the width of the adjoining major street. A ratio of building height to street width of one-to-two creates a strong "room-like" street, while a one to-three ratio provides good street definition and proportion. Shorter buildings of one story facing broad streets will not achieve the desired relationship.
<u>In the B-2b zone, buildings adjacent to streets should approach 1:2 height to street width, with a minimum of 1:3.</u> For a fifty-foot street right-of-way, therefore, a minimum height of 15' is required, with 25' height preferred. An eighty-foot right-of-way requires about 27' to achieve the 1:3 proportion with 40'-height preferred. Obviously, buildings located as close as possible to the street right-of way will provide better definition and proportion than buildings set further back.
2. Building Function
<u>An urban street and business district requires a substantial intensity and variety of uses.</u> It is beneficial to have mixed uses within portions of buildings situated near the street. For example, a retail first floor might have office or residential on the second or third floors. This provides both the scale of building height desired, as well as the economic vitality of the business district.
3. Orientation of Buildings and their Entrances to the Street
<u>Major building entries shall be designed and located to provide the primary building access oriented to the public street and sidewalk.</u> Doorways should be prominent and obvious in appearance, so as to attract the users toward the entry. Major entry features should primarily address the street, with entry courts, display windows, signage, lights, walkways, and vestibules, as appropriate. Major entries should be adjacent to, or very close to, the street and public sidewalk.
4. Windows
<u>Windows shall be located in all building facades visible from the public way, especially on building facades along the major public street.</u> Retail uses with store fronts are the most desirable feature for locations adjacent to the public sidewalk; and active, transparent (minimum visible transmittance (VT) of .7 or greater), and interesting windows contribute the maximum value. Limitations on transparency, such as dark or reflective glass, or interior coverings, should be avoided. Where uses (such as office) are not conducive to transparent viewing from the public way, windows can still convey a sense of activity and presence along the street. Even these more private windows can convey occupancy and habitation when lighted from within, as during evening hours, even if the interior is screened from view.
5. Building Character, Detail, Scale, and Graphic Qualities

Building design will include various architectural and graphic amenities to provide a strong presence along a street and relate a building to its community.

Awnings, canopies, and flags may be utilized to highlight entryways and to further identify the activity and identity of a use.

Facade lighting may be used to highlight entryways or to provide visual interest along an otherwise blank facade

Building scale, roof pitch, architectural detail, and fenestration shall be designed to complement and be compatible with surrounding residential and commercial buildings.

6. Signage and Building Entrances

Building entrances and building signage in the B-1, B-1b, and B-2b zones will be designed and constructed at the pedestrian scale.

7. Development Relationship to Street

Building facades and site amenities shall form a cohesive wall of enclosure along a street.

Where buildings are not located at the street line, site amenities, including masonry walls, fences, and landscaping, shall be placed along the street to provide a sense of enclosure or definition.

8. Parking Lots

Parking Lots shall be screened from view of the public way.

Landscaping or fencing shall be used to screen parking lots from public ways and residential neighbors. Where parking is located within the front yard (or side yard of a corner lot), a landscaped buffer or fence shall be placed along the street line to distinguish the private space from the public space and to help define the street wall.

Parking lots shall be screened from neighboring properties.

A densely planted landscape buffer or fencing shall be installed to protect neighboring properties from the impacts associated with the parking lot and the use it serves.

VII. COMPREHENSIVE PLAN AND ZONING ANALYSIS

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



The comprehensive plan includes the following economic and housing goals that are relevant to the proposed text amendments:

- Create economic prosperity by growing Portland's tax and employment base.
- Invest in, attract, and retain human capital to support a growing economy.
- Respect that our unique quality of place is key to our current and future economic success.
- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.
- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.

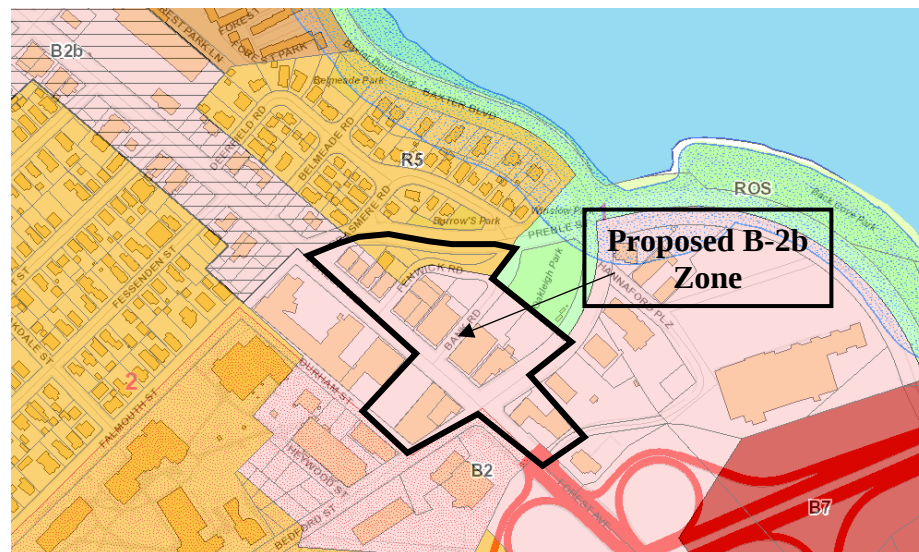
- Pursue policies to enable people who work in Portland to have the option to live in Portland.

In addition, Portland conducted a corridor study of Forest Avenue from Park Avenue through Woodfords Corner. Transforming Forest Avenue was adopted by the City Council on June 4, 2012 and it included recommendations for land use, transportation, and streetscape alternatives based upon a community process and best practices for transit supportive development (TSD). Feedback from the community process supported incentives considered to promote TSD principles. Encouraging vibrant and diverse land uses is an important principle of TSD development in order to provide multiple destinations in close proximity within an area. The development pattern should “provide for vibrant loci or activity at a pedestrian scale.” Architectural quality, high quality parking, and public spaces are other land use components that are identified as components for creating a high quality transit corridor.

Compact development that increases the concentration of uses and structures in the built environment is identified as a strategy to support TSD. While the B-2 and B-2b zones have similar uses and dimensional standards, the design guidelines between the two zones do differ. The design standards for the B-2b zone are more urban and pedestrian oriented. For example, in B-2b the building entrances shall be oriented toward or directly accessible from a public sidewalk, transparent windows are required along street frontages, and street frontages should create an active presence along the sidewalk.

VIII. PLANNING BOARD RECOMMENDATION

The Planning Board voted 6-1 (Whited opposed) to find that the proposed rezoning of the R-5 and B-2 zones to B-2 b as shown on the map below 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 shown below.



IX. ATTACHMENTS

1. Neighborhood Packet – March 10, 2016
2. Public Comment

Neighborhood Meeting Certification

I, Barbara Barhydt, Portland's Development Review Services Manager, hereby certify that a neighborhood meeting was held on March 10 at the Merrill Rehearsal Hall at 6:30 p.m. The location of the meeting was changed on the day of the meeting (Expo could not be used due to a Red Claws Game). On March 10, 2016, news flashes were posted on the City's web site, notices were resent to the interested citizen, and calls made to participants who attended the workshop. A staff person was stationed at the Expo to redirect interested parties to the Merrill Auditorium Rehearsal Hall from 6:00 p.m. to 6:45 p.m.

I also certify that on March 1, 2016, 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 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,



March 17, 2016

Attached to this certification are:

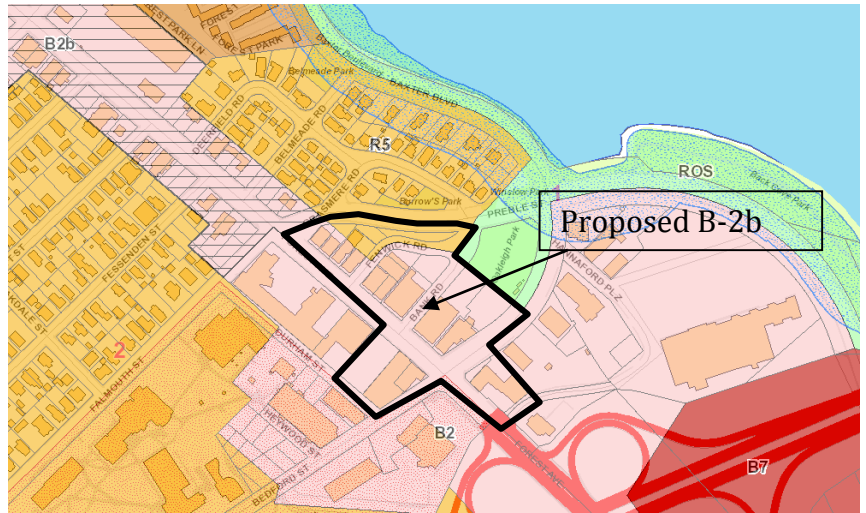
1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes
4. Written comment submitted at the meeting
5. Copy of Power Point Presentation



March 1, 2016

Dear Neighbor,

Please join us for a neighborhood meeting to discuss the City of Portland's proposal to rezone an area along Forest Avenue from Community Business B-2 and Residential R-5 to the Community Business B-2b zone. The proposed zone change is in the vicinity of the block bounded by Forest Avenue, Preble Street Extension and Baxter Boulevard and includes commercial parcels at the intersection of Forest Avenue, Baxter Boulevard and Bedford Street, as shown on the map.



Meeting Location:

**Portland Exposition Building, Rehearsal Hall
239 Park Avenue, Portland, ME 04102**

Meeting Date:

Thursday, March 10, 2016

Meeting Time:

6:30 p.m.

The City Code requires that property owners within 500 feet (1000 feet for proposed industrial subdivisions and industrial zone change) 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 feel free to contact Barbara Barhydt, Development Review Services Manager at the Portland Planning Division at 874-8699 or at bab@portlandmaine.gov

Note: Under Section 14-32(C) and 14-524(a)d of the City Code of Ordinances, an applicant for Level III development subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting within 30 days of submitting a preliminary application or 21 days of submitting a final site plan application, if a preliminary plan was not submitted. The neighborhood meeting must be held at least seven days prior to the Planning Board public hearing on the proposal. Should you wish to offer additional comments on this proposed development, you may contact the Planning Division at 874-8719 or send written correspondence to the Planning and Urban Development Department, Planning Division, 4th Floor, 389 Congress Street, Portland, ME 04101 or by e-mail to bab@portlandmaine.gov

**Forest Avenue, B-2 and R-5 to B-2b Rezoning
Neighborhood Meeting Sign In Sheet
March 10, 2016**

[illegible]

6:00 PM - submitted
March 10, 2016

Dear City of Portland,

The area on Forest Ave near the Palmer Spring Company has very old trees. Surrounding the parking lot is Red Maple, Beech. At the corner near the Forest Ave, Zoned R5, Residential, and a main street is an ancient Red Maple that has so much water under it that it has sprouted 20 or more branches from the trunk of the tree. Would you please do an Environmental Review by your agency in charge or contact Ron Mongeon, Enforcement, Maine Department of Environmental Protection - (207) 287-7740. Or contact Environmental Assessment (water resources) Don Witherill (207) 215-9751. Ground water protection is also necessary so you should contact John Hopeck (207) 215-4463.

I am objecting to a Zoning Change. No further development should take place to protect the water resources according to the Water Act of the Federal Government and the City of Portland Code of Ordinances. Sincerely,
and the State of Cheryl A Joseph
Maine Environmental Boston College, B.S. Biology
Laws.

Portland, Maine



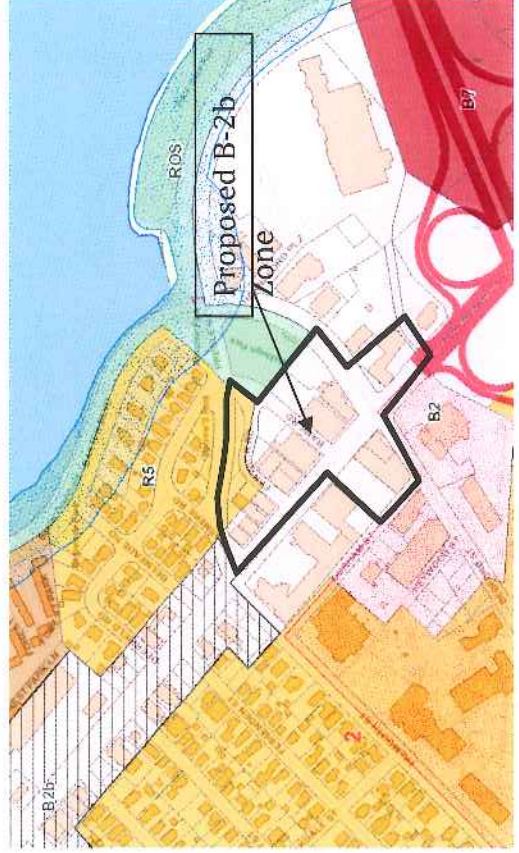
Yes. Life's good here.

Planning & Urban Development Department

**Neighborhood Meeting:
Proposed Zoning Map Change from B2 to B2b
between Preble St Extension and I-295 along Forest Avenue**

City of Portland, Applicant

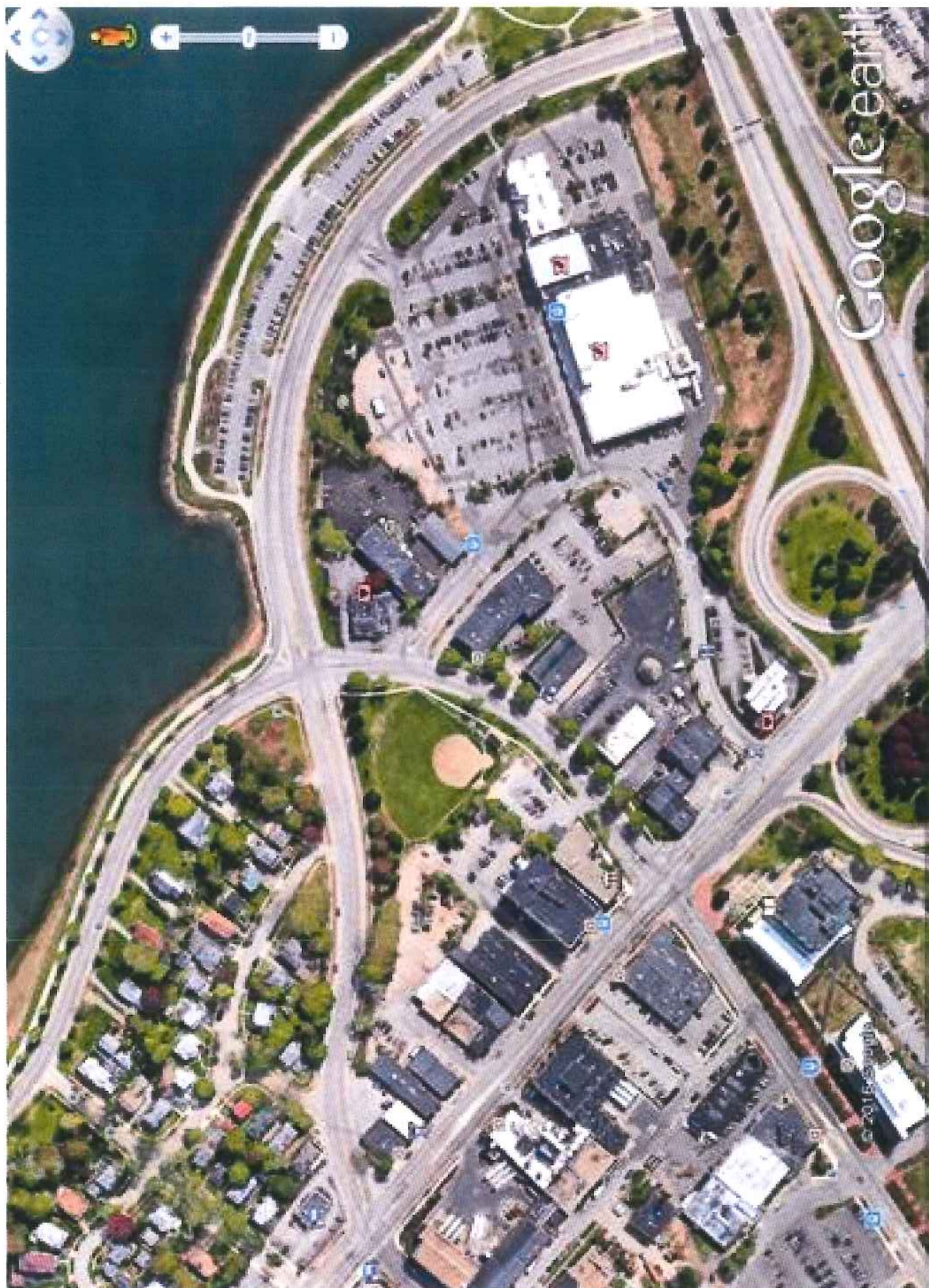
March 10, 2016



Agenda

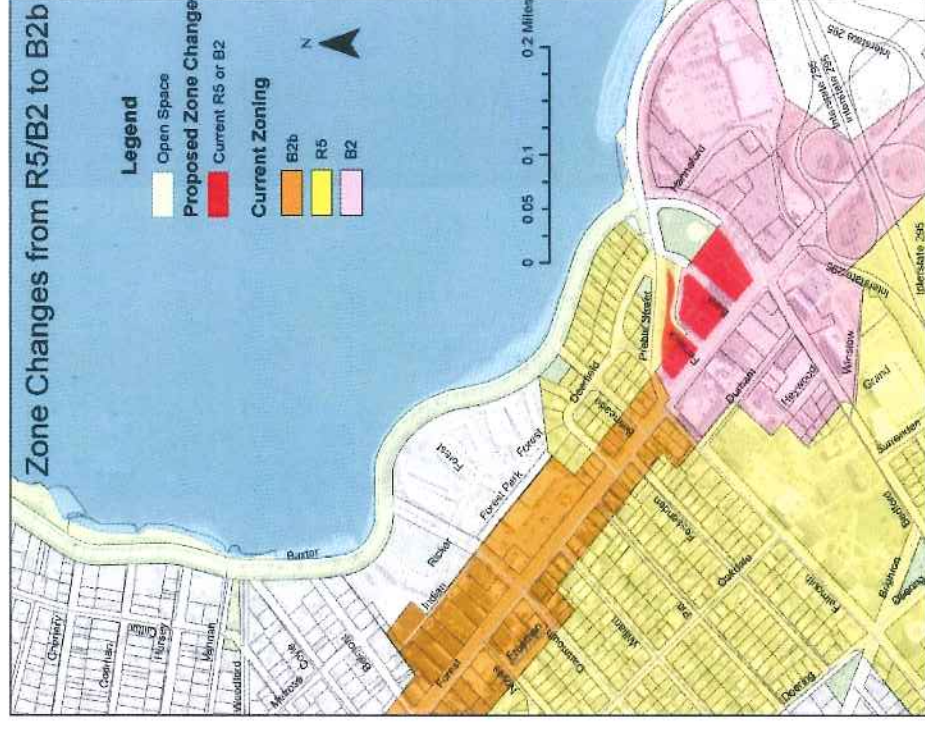
- 1. Introduction Councilor Belinda Ray,
District One**
- 2. Description of Proposal**
- 3. Public Comment and Questions**
- 4. Next Steps**

Google earth



Background

- At the CC Meeting on Feb. 1, 2016, Councilor Ray moved to have the Planning Board consider a zoning map amendment from the current Community Business B-2 zone and the Residential R-5 zone to the Community Business B-2b zone (red properties to right).
- CC voted unanimously to refer this item to the PB and requested PB to report back by April 1, 2016.
- On Feb. 23rd PB held workshop on the item and decided to move forward with a hearing on the rezoning for a larger area (following slide).
- PB Hearing scheduled for Mar. 22, 2016





Zone	Purpose
Residential R-5	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.
Community Business B-2	1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community. 2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone. 3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns. 4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.
Community Business B-2b	The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.

Standard	R-5	B-2	B-2b
Minimum Lot area per dwelling unit	3,000 sf, except 3,600- 4,800 sf for special needs independent	none	none
Street Frontage	50 feet	20 ft	20 ft
Minimum Lot Width	60 feet, except 90 for multiplex	none	none
Minimum Front Yard	20, except average depth if less than 20		
Maximum Front Yard	N/A	10 ft, Bd may grant waiver for irregular lots with less than 40 ft of frontage	10 ft, Bd may grant waiver for irregular lots with less than 40 ft of frontage
Minimum Rear Yard	20 feet	10 ft, accessory structures, 5 ft	10 ft, accessory structures, 5 ft
Minimum Side Yard	8-15 feet, depending on building height and location	None, accessory structures, 5 ft	None, accessory structures, 5 ft
Minimum Side Yard on Side St		None	None
Structure Height	35 feet	45 ft, 50 ft if 1 st floor commercial is whole or partially commercial use	45 ft, 50 ft if 1 st floor commercial is whole or partially commercial use
Structure Stepbacks		Portions of a structure above 35 feet shall be no closer than 5 feet from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.	Portions of a structure above 35 feet shall be no closer than 5 feet from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.
Maximum Lot Coverage (building coverage)	40%		
Maximum Impervious Surface	N/A	Residential uses – 0% All permitted uses - 80% a. Off-peninsula locations, as defined in section 14-47: 1,500 SF, except as provided for in (b) below. b. On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 SF	Residential uses – 0% All permitted uses - 90% a. Off-peninsula locations, as defined in section 14-47: 1,500 SF, except as provided for in (b) below. b. On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 SF.
Minimum Lot Area per Dwelling Unit			

Transforming Forest Avenue Study

Approved June 4, 2012

- Transforming Forest Avenue considered land use options for the corridor, including use based zoning, form based code and transit supportive development (TSD).
- Encouraging vibrant and diverse land uses is an important principle of TSD development in order to provide multiple destinations in close proximity within an area
- The development pattern should “provide for vibrant loci or activity at a pedestrian scale.”
- Architectural quality, high quality parking, and public spaces are other land use components that are identified as components for creating a high quality transit corridor.
- While the B-2 and B-2b zones have similar uses and dimensional standards, the design guidelines between the two zones do differ. The design standards for the B-2b zone are more urban and pedestrian oriented.



WOODMAN EDMANDS DANYLIK AUSTIN
SMITH & JACQUES, P.A.

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PETER L. EDMANDS
(Retired)

March 17, 2016

Jeff Levine, Planning & Urban Development Director
City of Portland
389 Congress St, Fourth Floor
Portland, ME 04101

Re: Proposed Zoning Amendment/Forest Avenue

Dear Mr. Levine:

On February 1, 2016, the City Council asked the Planning Board to review and provide its recommendation on a possible zoning amendment. This amendment would reclassify the City blocks south of Preble Street Extension, east of Forest Avenue, and north of Baxter Boulevard from either B-2 or R-5 to B-2b. In addition, the Council asked the Planning Board to separately consider revisions to the language of the B-2 and/or B-2b zone ordinances and design manual. It of course is no coincidence that these proposed zoning changes came only after the City became aware of a proposed CVS Pharmacy development in this area that had been in the works for approximately five years, and of the desire by the current owners of the existing structures to sell their properties for this development.

On February 23, 2016, the Planning Board held a workshop on this issue, and on March 10, 2016, it held a neighborhood meeting. A public hearing has been scheduled for March 22, 2016.

The purpose of this letter is to provide an explanation of why a rezoning from B-2 to B-2b in this instance would be neither appropriate, nor in the best interests of the City.

I. B2 versus B-2b/Uses

While the "purpose statements" for the B-2 and B-2b appear to describe a more commercial zone for the B-2 and a less intensive commercial zone for the B-2b in reality,

WOODMAN EDMANDS DANYLIK AUSTIN SMITH & JACQUES, P.A.

Jeff Levine, Planning & Urban Development Director
City of Portland
March 17, 2016
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the differences between the B-2 and B-2b zones are few. The B-2 allows for certain dairies and bakeries; the B-2b allows for only small bakeries. The B-2 allows for wind energy systems; the B-2b does not. Significantly, the B-2 allows for research and development and related production establishments, drive-throughs that are accessory to a principal use, and major and minor auto service stations in existence as of 1999; none of these last three uses are permitted in the B-2b.

With respect to drive-throughs, there are several drive-throughs in the vicinity of the area under consideration for rezoning, including the credit union located on the Forest Avenue side of the Hannaford shopping center. Drive-throughs are not an antithesis to urban design. In particular, pharmacy drive-throughs, with their low queuing and low volume speakers (HIPPA required), have little impact in an area that is already subject to high traffic volume. Permitting a drive-through in this section of Forest Avenue, which is closely connected to Route 295, a university commuter campus, and the Hannaford shopping center, will have no impact on the dynamics of automobile traffic. What a pharmacy drive-through does however provide is more convenient and easier access to medications by that section of the local population that is elderly, disabled, ill, contagious, or with small children in the car. It is fine to say that everyone should park and walk a couple of blocks – but, this is simply not the reality for many. The option of a pharmacy drive-through in this area would serve individuals who must now drive a distance in order to be able to obtain medications without having to exit their vehicles and enter a store to do so. The original decision to allow for drive-throughs in this limited commercial area, which is physically detached from the established residential neighborhoods, was not by accident or mistake. It is simply the right place for a drive-through to be located.

I. B2 versus B-2b/Design and Technical Standards

There appears to be only one differing dimensional standard between the B-2 and B-2b – maximum impervious lot coverage is 80 percent in the B-2 and 90 percent in the B-2b. As most all of the property within the proposed rezone area (with the exception of the City's ballpark), is already greater than 90 percent impervious, this distinction is irrelevant.

Further, the distinctions, if any, between the City's Design Manual ("Manual") and its Technical Standards and Design Guidelines ("Guidelines") for these two zones is less than clear. While the Manual calls for an "urban street wall" only in the B-2b; the Guidelines require an urban street wall in both the B-2 and the B-2b. The Manual requires building entrances in the B-2b zone to be oriented toward, and accessible from the sidewalk; again, the Guidelines require this in both the B-2 and the B-2b. As the Guidelines appear to

WOODMAN EDMANDS DANYLIK AUSTIN SMITH & JACQUES, P.A.

Jeff Levine, Planning & Urban Development Director
City of Portland
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Page 3 of 4

be the stricter of the two, presumably the Guidelines would control. If this is so, there is virtually no design difference between structures in either zone.

III. Physical Location of Zoning Boundaries

As is very well illustrated in a map attached to the staff memo prepared for the February 23, 2016 Planning Board workshop (attached again to this letter for reference), the B-2 section of Forest Avenue under consideration for rezoning is physically separated from the existing B-2b zone by Preble Street Extension and Falmouth Street. The decision to separate the two zones in this fashion was surely not by accident or oversight. The pink zone on the map (B-2) is comprised of existing commercial development that is denser and larger than commercial development on the northerly side of Preble Street; it is more connected to the University; and, it is more closely associated with the Route 295 connector. As noted, unlike the B-2b, the B-2 allows for research and development and related production establishments, such as can be found at the University or Oakhurst Dairy. This is the only area located near either the school or the dairy that allows for this use – again presenting a reason why the present zoning was well planned and not merely an oversight. The pink zone also allows for auto service stations in existence as of 1999, such as the existing Palmer Springs business. It is somewhat ironic that the City is considering saving structures that represent the auto industry, while at the same time moving toward eliminating that use.

In addition to its permitted uses, the parcels comprising the area under consideration for rezoning are accessed not only from Forest Avenue but also have access from, and in some cases abut, Preble Street and Bedford Street. This is unlike the B-2b zone north of Preble Street, where the parcels fronting on Forest Avenue abut densely developed largely single family residential lots. In this way, the subject area is once again distinctly different, and easily distinguishable, from the B-2b zone itself.

III. The R-5 Zone

The *Transforming Forrest Avenue* study, adopted by the City Council in 2012, designates the subject area as “Central Forest Avenue.” The study calls for this section of Forest Avenue to be “the heart of commercial, civic, and other activity.” The R-5 zone here, appears to be a remnant of the residential zone that existed prior to the development of the Preble Street Extension. Today however, and particularly in light of the *Transforming Forrest Avenue* study, this property is not suited for low-density residential use, but rather should be zoned for a denser commercial or mixed use development. Maintaining a low-intensity, single lot residential zone in an area that is separated from all other such zones,

WOODMAN EDMANDS DANYLIK AUSTIN SMITH & JACQUES, P.A.

Jeff Levine, Planning & Urban Development Director

City of Portland

March 17, 2016

Page 4 of 4

and is in the heart of a potential commercial development area, makes little sense. This area should be rezoned to the abutting B-2 zone.

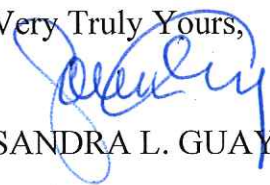
III. Language Amendments

As noted above, in addition to asking the Planning Board to consider a possible rezoning, the Council has asked the Board to think about amendments to the design standards for the B-2 and B-2b zones. As it appears that there is presently so little differentiation in design standards between these two zones, and as neither zone appears to require or show preference for the type of multi-use/multi-level development that the City seems to be envisioning, this ordinance language revision approach seems to make more sense than a zone change in this instance. Again, this zone change would eliminate any research and development facilities, make the existing Palmer Springs non-conforming, and disallow all drive-thoughts, all without any apparent overriding benefit to the City.

Zoning is best when part of an overall plan, and is not simply reactionary. It is clear that in this instance, the request from Council that the Planning Board consider and provide its recommendation of a rezoning in the blocks south of Preble Street Extension, east of Forest Avenue, and north of Baxter Boulevard from B-2 to B-2b, is a reaction to one development proposal. While that proposal design has yet to see the light of day, it is clear that the rezoning of this single block to a B-2b zone will not prevent the possibility of a single-use, single level, development in this location.

Thank you for your attention to this matter. I am confident that the Planning Board will provide its usual level of scrutiny and deliberation to this zone amendment recommendation to the City Council.

Very Truly Yours,


SANDRA L. GUAY

SLG/lb

Copies to:

Mark Bettenhausen, T.M. Crowley & Associates

Mary Costigan, Esquire, Bernstein, Shur, Sawyer & Nelson, P. A .

Michael Kaplan, Kaplan 447 LLC



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Mary E. Costigan
(207) 228-7147 direct
mcostigan@bernsteinshur.com

March 18, 2016

Portland Planning Board
389 Congress Street
Portland, Maine 04101

RE: Proposed Rezoning on Forest Avenue

Dear Board Members:

I am writing on behalf of Palmer Spring Co., the owner of 351-355 Forest Avenue and D & J Weeks Properties, the owner of 365 and 369 Forest Avenue. Shortly after these properties were under contract for sale to an entity that plans to have a drive-through associated with the use of the property, a proposal to rezone the properties from B-2 to B-2b was forwarded to the Planning Board. For the reasons set forth below, we respectfully request that the Planning Board recommend to the City Council that these properties not be rezoned B-2b.

B-2 v. B-2b Permitted Uses and Dimensional Standards

The differences between the B-2 and B-2b zones are so limited they can easily be listed below:

1. Bakeries and commercial kitchens are permitted uses in both zones, however in the B-2b can be no greater than 7,000 sq. ft.
2. Drive-throughs are not permitted in the B-2b zone, but are allowed in the B-2 zone as a permitted use if it is not located adjacent to a residential use or zone and as a conditional use if located adjacent to a residential use or zone.
3. All major and minor auto service stations are permitted in the B-2 zone, but only those major or minor auto service stations in existence as of November 15, 1999 are permitted in the B-2b zone.
4. In the B-2, structures can be up to 65 feet in height if located on lots greater than 5 acres provided that they meet certain setback requirements.

5. Maximum impervious coverage for all uses other than residential uses is 80% in the B-2 and 90% in the B-2b

All of the remaining standards set forth in the Land Use Code are identical for both the B-2 and B-2b zones, including front yard parking requirements.

Design Standards

Section 14-526(d)(9)(a)(iii) provides:

Development in the B1, B1-b, B2 and B2-b business zones shall provide an established street wall with entrances and public portions of the building oriented to and directly accessible from the public sidewalk and shall be designed and scaled to be compatible with surrounding residential and commercial development as demonstrated by compliance with all applicable design standards listed in the Design Manual.

Within the Design Manual, the following relevant standards and guidelines apply to the B-2 and B-2b:

1. Design Standards:

- In the B-2b zone, buildings are required to be located to create and preserve an urban street wall.
- In the B-2 zone, the building entrances shall be oriented toward, located adjacent to and directly accessible from, a sidewalk in a public right-of-way.
- In both the B-2 and B-2b zones, transparent, pedestrian-level windows shall be required along the street frontage.
- In both the B-2 and B-2b zones, active and public portions of buildings shall be oriented to and, where possible, located adjacent to the public sidewalk.

2. Design Guidelines:

- The manual states that buildings in the B-2 are specifically encouraged to adhere to the guidelines contained in Appendix 2 concerning urban street walls and building entrances.
- Appendix 2 states that “Development in the B-1, B-1b, B-2, B-2b shall meet the following guidelines in order to meet Site Plan Standards:”
 - “Buildings shall be located near the street so as to create an urban street wall.”
 - “Major building entries shall be designed and located to provide the primary building access oriented to the public street and sidewalk.

It is unclear how the inconsistencies in the ordinance, manual and the appendix would be resolved, but it is apparent that changes over time have brought the two zones very close in line in terms of design. In any event, the mostly identical uses and dimensional standards, taken with the close to identical design standards, leave a very narrow area of distinction between the B-2 and B-2b zones. Although limited, those differences are very significant to Palmer Spring and D&J Weeks and would be detrimental to the sale of the property and Palmer Spring's ability to relocate the business.

The most notable distinction between the two zones is the prohibition on drive-throughs in the B-2. A drive-through in this location, close to the 295 interchange simply makes sense and can be designed in a manner that would have little impact on traffic and the surrounding uses. The current demarcation between the B-2 and B-2b drawn at Preble Street is a natural division; one that leaves Palmer Spring, Hannaford, and Oakhurst on one side, serving as an area of service to those traveling on the highway and of transition to the more pedestrian-oriented B-2b further down Forest Avenue. The Planning Board and Council visited the issue of drive-throughs in the B-2b just over a year ago. It is notable that neither the Board nor the Council determined at that time that drive-throughs should be prohibited in the area now being reviewed for rezoning.

In addition to the drive-through prohibition, the limitation on auto service stations in the B-2b would be very problematic for Palmer Spring. The only service stations permitted in the B-2b zone are those that were in existence as of November 15, 1999, so essentially only Palmer Spring. A recent decision by the Historic Preservation Board that the Palmer Spring building is eligible to be listed as a local landmark, together with a rezone to B-2b, would likely make it impossible for Palmer Spring to ever sell the property.

For these reasons, we are hopeful that the Planning Board will recommend to the Council that the Palmer Spring and surrounding properties should not be rezoned from B-2 to B-2b. The current regulatory structure for the B-2, coupled with the Site Plan review process will ensure that any development on this site meets the City's vision for the transitional area from the highway to the pedestrian-oriented B-2b zone.

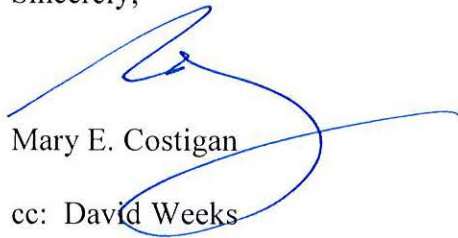
Finally, we would like to suggest that the Planning Board take this opportunity to recommend to the Council that the boundary between the R-5 and the B-2 be moved to the other side of Preble Street. As you can see in the attached, the line between the two zones is currently in the middle of the properties that face Forest Avenue. Cleaning up the map will give additional flexibility for development of those Forest Avenue properties.

March 18, 2016

Page 4

Thank you for your time and consideration. Please let me know if we can provide further information.

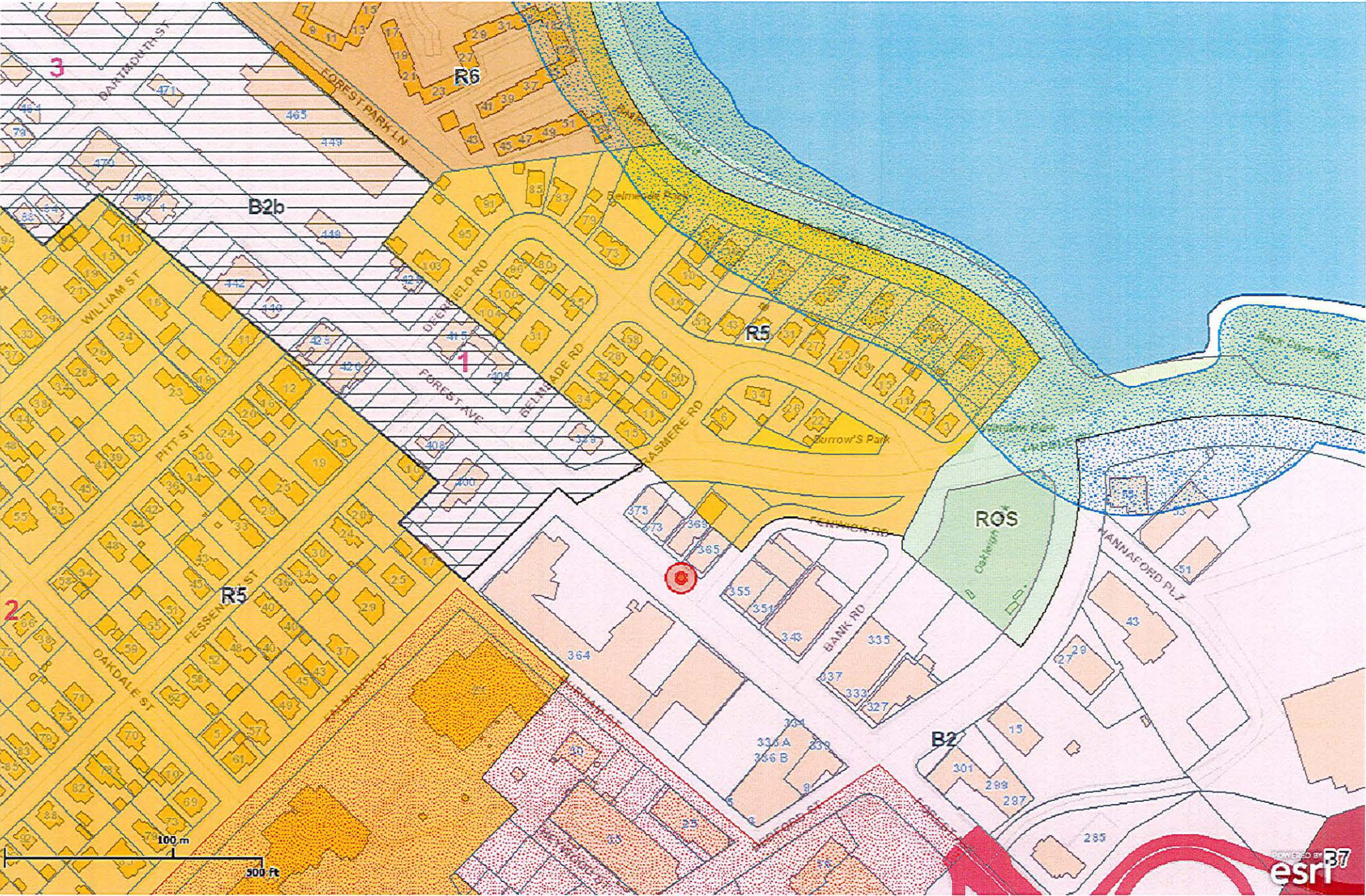
Sincerely,

A handwritten signature in blue ink, appearing to be 'Mary E. Costigan', with a large, sweeping flourish extending to the right.

Mary E. Costigan

cc: David Weeks

My Map



MEMORANDUM
City Council Agenda Item

FROM: Jeff Levine, Director Planning & Urban Development Department

DATE: February 19, 2019

SUBJECT: **Order 162-18/19 Amendment to the Portland City Code Chapter 14 Re: Drive-throughs in the B-2, B-2b and B-2c Community Business Zones - Sponsored by the Planning Board, Sean Dundon, Chair**

SPONSOR: Portland Planning Board, January 22, 2019, Vote: 7-0
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading

Final Action

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

PRESENTATION: Sean Dundon, Chair, Portland Planning Board, 5 minute oral presentation.

I. SUMMARY

The Planning Board unanimously recommends adoption of text amendments to utilize the incentive of drive-throughs to those associated with a pharmacy or banking facility to produce additional housing in Portland. This amendment would limit drive-throughs to buildings with 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units, as a conditional use in B-2, B-2b and B-2c zones.

II. AGENDA DESCRIPTION

The Planning Board unanimously recommends adoption of text amendments to the B-2, B-2b and B2c zones to allow bank and pharmacy drive-throughs in all B-2 zones, but only when they are in developments that include upper story housing. Currently, drive-throughs associated with permitted uses are allowed in B-2 and B-2c as a conditional use, but no drive-throughs are allowed in the B-2b zone. This proposed amendment would allow drive-throughs in all of these zones, but only in multiple story buildings with housing above. Specifically, the proposed text amendments revise the B-2 Table of Uses to limit drive-throughs to those associated with a pharmacy or banking facility in the three B-2 zones as a conditional use. A proposed footnote in the Use Table clarifies that drive-throughs are not permitted for restaurant, bakery or other food or beverage service uses. The conditional use standards for drive-throughs are revised to only permit a drive-through (associated with a bank or pharmacy) in a building of 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units. Screening, location of drive-throughs, and stacking capacity for safe pedestrian and vehicle circulation on and off site are included in the location standard and the other existing 5 standards are retained.

This item must be read on two separate days. It received its first reading on February 20, 2019. Five affirmative votes are required for passage after public comment.

III. BACKGROUND

The Community Business Zone- B-2, includes the B-2b and B-2c as subdistricts. The B-2 zones are located along major transportation corridors and encompass larger commercial districts. It is a zone where a wider range of businesses and more intensive commercial uses, including drive-throughs, have been allowed.

Starting in 1999, the B-2 zone has been revised multiple times in order to refine the zone to better

accommodate policy initiatives for the redevelopment of Portland's commercial districts by supporting denser urban infill and transit-oriented development. In 2016, the Board recommended (6-1, Whited opposed) a map amendment from B-2 to B-2b for the section of Forest Avenue near the intersection of Forest Avenue, Preble Street Ext and Baxter Boulevard. During the public hearing discussion, the Board suggested exploring options to link the creation of new housing with proposals for new drive-throughs. The recommendation for the map amendment was placed on hold and not forwarded to the Council, pending development of the proposed text amendments.

The Planning Board and the City Staff are recommending proposed text amendments to the B-2 zones, which allow drive-throughs associated with banks and pharmacies, as a conditional use in the three B-2 zones. The locational standard for a drive-through requires a building with a minimum of 3 stories and the majority of the upper floors are to be residential units. The Board and the City are also now prepared to move forward with the proposed B-2b map amendment for a portion of Forest Avenue, which is a separate order and report on the Council's agenda.

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Portland's Plan 2030 includes the following economic and housing goals that are relevant to the proposed text amendments:

- Create economic prosperity by growing Portland's tax and employment base.
- Invest in, attract, and retain human capital to support a growing economy.
- Respect that our unique quality of place is key to our current and future economic success.
- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.
- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.

V. FINANCIAL IMPACT

The proposed zoning amendments do not have a direct fiscal impact to the City.

VI. STAFF ANALYSIS AND BACKGROUND

Pharmacies and banks seek drive-through windows to serve their clientele. The intensity and impacts of the drive-throughs are generally less than those associated with fast food restaurants, coffee shops, bottle redemption centers, and other uses. While pharmacy and bank drive-throughs are less intensive, the auto-oriented use does impact the pedestrian environment and Portland's goal for a walkable city. In addition, Portland has a stated goal to provide for more housing on upper floors, particularly along major transit corridors. The proposal to require bank and pharmacy drive-throughs to provide housing supports economic development objectives of the comprehensive plan and creates an incentive for more housing along transportation corridors. This proposed amendment balances concerns about drive-throughs as stand-alone uses and instead proposes allowing them as incentives to produce multiple story buildings that include housing. The text amendments will allow well capitalized tenants to help cross-subsidize other City goals.

Allowing drive throughs in projects that provide other significant policy and design benefits will also leverage well-funded and motivated retail users – such as pharmacies – to make major investments in City policy goals. By allowing a well-screened drive through on the first floor, there is much more likely to be such investment, which would include good urban design elements in a multistory building, and also produce housing. Limiting the drive through types to pharmacies and banks minimize the negative externalities of other drive through uses

while leveraging this private investment that might not occur otherwise.

This proposal is an innovative approach to regulating drive-throughs in an urban area. Local examples, include the Bangor Savings Bank on Marginal Way, which has a drive-through facility at the rear of the 3-story structure meeting the conditional use standards for the B-5 zone. Bangor Savings also has a drive-through facility at their two-story building on Middle Street. While it does not have a drive-through facility, the c-Port Credit Union on the corner of India and Middle met the minimum height requirements of the India Street Form Based Code by including a third-floor residential unit over the retail and office facilities located on the first and second floors. Examples of larger scale development incorporating these design principles are found in Edina, Indianapolis, and Milwaukee.

VII. RECOMMENDATION

On January 22, 2019, the Planning Board voted unanimously to find that the proposed text amendments to the Section 14-182, Permitted Uses, and Section 14-183- Conditional Uses of the B-2, B-2b, and B-2c zones of the Land Use Code are consistent with the Comprehensive Plan and recommends adoption of the proposed amendments to the City Council.

VIII. LIST ATTACHMENTS

1. Drive-throughs in B-2 and B-2b 2.20.2019
2. Report and Attachments (B-2 Drive Throughs)

Prepared by:

Jeff Levine, Director Planning & Urban Development Department

Date: 02/19/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO PORTLAND CITY CODE CHAPTER 14 RE: DRIVE-THROUGHS IN B-2, B-2b AND B-2c COMMUNITY BUSINESS ZONES

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

*That Chapter 14, Sections 14-182 and 14-183 are hereby
amended to read as follows:*

Sec. 14-182. Table of uses.

Group ¹	Use	B-2 ²	B-2b	B-2c
R	Single family home	Y	Y	Y
	...			
A	Drive-throughs associated with a permitted or conditional <u>a pharmacy or banking facility</u> use ⁴	C	NC	C

. . .

1 Uses within the same group lettering may be substituted without being considered a change of use under zoning, provided all dimensional and other requirements of this section are met. Other reviews may be required under City regulations, including but not limited to building permit, subdivision and site plan reviews. However, no additional parking shall be required for changes within the same use group for a change in total floor area up to 10,000 sf, except for the provision of additional housing units.

Use Groups include the following:

R = Residential
B = Business
I = Institutional
O = Other
U = Utility
A = Auto related
M = Manufacturing/Processing/and other Industrial

2 Y-Permitted N-Not Permitted

C-Conditional use, see section 14-183 for specific standards in addition to the general conditional use standards

3 Expansion of accessory uses into space used by a permitted use shall not be considered a change of use

4 See conditional use standards for drive-throughs. Drive-throughs are not permitted for restaurant, bakery, or other food or beverage service uses.

Sec. 14-183. Conditional uses.

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

(a) "A" group conditional uses. Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:

6. Drive-throughs: Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:

a. Location of Drive-throughs: ~~Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any adjoining property located in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular~~

~~circulation on adjoining streets.~~

Drive-throughs are only permitted in buildings of 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units. The drive-through shall be screened as much as practical from the front of the building and shall be no closer than 40 feet from abutting residential zones and 25 feet from the street line. Adequate stacking capacity much be provided on site without impeding vehicular circulation or creating hazards to pedestrian or vehicle circulation on or off site.

. . .



CITY COUNCIL REPORT FROM PLANNING BOARD PORTLAND, MAINE

Text Amendments for Drive-Throughs in the B-2, B-2b and B-2c Zones
Zoning Text Amendments
City of Portland, Applicant

Submitted to: Portland City Council: First Reading Date: February 20, 2019 Second Reading Date: March 4, 2019	Prepared by: Jeff Levine, Director, Dept. of Planning and Urban Development and Barbara Barhydt, Development Review Services Manager Date: January 31, 2019
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I. PLANNING BOARD RECOMMENDATION

The Portland Planning Board held a public hearing on January 22, 2019. The Board unanimously recommends (7-0) to City Council the adoption of the proposed text amendments regarding drive-throughs in the B-2, B-2b and B-2c zones. The proposal limits drive-throughs as a conditional use in the B-2 zones to those facilities associated with a bank or a pharmacy use in a building with a minimum of 3 stories and a majority of the upper floors devoted to a minimum of 3 residential units. David Silk noted that the proposed amendments are consistent with the adopted goals and policies of the Comprehensive Plan and that the language, as proposed, reflects the Board's discussion at the December workshop. Austin Smith stated that the proposed amendments are a great way to limit the high intensity impacts of drive-throughs and provide incentives for more housing along the City's major transportation corridors and neighborhood centers. Chair Dundon concurred.

There was no public comment provided at the public hearing; however, Mr. Rheault spoke in favor of the text amendments at the Board's December 11, 2018 workshop. He noted that the proposal is an example of good urban planning and asked how the proposal would incentivize housing, whether mixed use projects would be allowed, and how many units would be required.

II. PROPOSED AMENDMENTS (full text in Council Order and Attachment A)

A. INTRODUCTION

The Community Business Zone- B-2, includes the B-2b and B-2c as subdistricts. The B-2 zones are located along major transportation corridors and encompass larger commercial districts. It is a zone where a wider range of businesses and more intensive commercial uses, including drive-throughs, have been allowed.

Starting in 1999, the B-2 zone has been revised multiple times in order to refine the zone to better accommodate policy initiatives for the redevelopment of Portland's commercial districts by supporting denser urban infill and transit-oriented development. In 2016, the Board considered and recommended (6-1, Whited opposed) a map amendment from B-2 to B-2b for the section of Forest Avenue near the intersection of Forest Avenue, Preble Street Ext and Baxter Boulevard. During the public hearing discussion, the Board suggested exploring options to link the creation of new housing with proposals for new drive-throughs. The recommendation for the map amendment was placed on hold at that time pending the additional ordinance work. The City is now prepared to move forward with

the proposed map amendment (separate order and report for the City Council's consideration) along with the Planning Board's recommendation for the B-2, B-2b, and B-2c zoning text amendments. The full text of the proposed amendments is included as Attachment A.

B. SUMMARY OF PROPOSED TEXT AMENDMENTS

A. Table of Use:

The proposal is to amend Section 14-182. Table of Uses, so a drive-through associated with a pharmacy or banking facility use is a conditional use in all three B-2 zones. This would add drive-throughs for banks and pharmacies into the B-2b zone and would narrow the option for drive-throughs in the B-2 and B-2c zones.

A	Drive-throughs associated with <u>a pharmacy or banking facility</u> use ⁴	C	<u>NC</u>	C
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The footnote related to the drive-through use cross references the standards for drive-throughs and clarifies that drive-throughs are not allowed with restaurants, bakeries, or other food or beverage service uses. The specific language is as follows:

4 See conditional use standards for drive throughs. Drive throughs are not permitted for restaurant, bakery, or other food or beverage service uses.

B. Conditional Uses.

The current standards for a conditional use review of a drive-through would be retained, with the first standard modified to only allow drive-throughs in buildings of 3 or more stories where the majority of the upper stories is devoted to a minimum of 3 or more dwellings units. The language would allow other upper floor uses, such as offices, subject to the majority of the upper floors being residential. The standards b through f would remain unchanged and are listed above on pages 3 and 4. Standard a is proposed as follows:

6. Drive-throughs: Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:

a. a. —Location of Drive-throughs: Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any adjoining property located in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.

Drive throughs are only permitting in buildings of 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units. The drive through shall be screened as much as practical from the front of the building and shall be no closer than 40 feet from abutting residential zones and 25 feet from the street line. Adequate stacking capacity much be provided on site without impeding vehicular circulation or creating hazards to pedestrian or vehicle circulation on or off site.

III. CURRENT LAND USE CODE DEFINITIONS AND REGULATIONS

A. Definitions of Drive-Throughs and Use Regulations

Portland's zoning code includes definitions for drive-through facility and drive-through features, as follows:

Drive-through facility: A commercial facility which provides a service directly to a motor vehicle occupant and where the customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer is served with or without exiting the vehicle. Drive-throughs do not include major or minor auto service stations.

Drive-through features: Features associated with drive-throughs including but not limited to designated travel or stacking lanes, intercom systems, menu boards, service windows, kiosks, mechanical devices, etc.

Drive-throughs are treated in a variety of ways within the other business zones in Portland. Attachment B is a chart with the business zones and the regulations pertaining to drive-throughs. In summary, drive throughs are permitted as an accessory use in the B-4 zone and in B-5 locations outside of the area between Forest Ave and Franklin St. The zones in which drive-throughs are not permitted include the following:

- Neighborhood Business B-1
- Community Business – B-2b
- Airport Business A-B
- Island Business – IB
- Urban Mixed-Use B-5b
- India Street Form Based Code (ISFBC)

Drive-throughs are listed as conditional uses with specific design standards or in some cases are limited in where they can be located in the following zones:

- Community Business B-2 and B-2c – Currently, listed as a conditional use associated with permitted or conditional uses, which includes specific standards.
- Downtown Business B-3 – Drive-throughs with restaurants are not permitted and drive-up for a bank facility is a conditional use with specific standards.
- Urban Mixed-Use B-5- Drive-throughs are prohibited in the area between Forest Avenue and Franklin Street. Drive-throughs for a banking facility located between Forest Avenue and Franklin Street is a conditional use.
- Eastern Waterfront Mixed Use B-6 – Drive-up facilities for banks are a conditional use and must be located in the interior of parking structures.

B. Purpose Statement for B-2, B-2b and B-2c Districts

The purpose statements for each of the three (3) B-2 zones are excerpted below. The revisions to the B-2 zone, particularly with the dimensional standards, have made the B-2 and B-2b more similar and designed to support an urban form of redevelopment.

Sec. 14-181. Purpose.

(a) B-2 Community Business Zone

The purpose of the B-2 community business zone is:

1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community.
2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets.

Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.

(b) B-2b Community Business Zone

The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood-oriented building pattern.

(c) B-2c Community Business Zone

To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

C. Permitted and Conditional Use Provisions for Drive-throughs in B-2 Zones

Drive-throughs associated with a permitted or a conditional use are listed as an auto oriented use on the table of permitted uses (Attachment A). Drive-throughs are not permitted in the B-2b zone and are listed as a conditional use associated with permitted or conditional uses in the B-2 and B-2c zones. In addition to the general conditional use standards contained in Section 14-474 of the Land Use Code, the specific conditional use standards of the B-2 zone for auto related uses are below with specific provisions for drive-throughs found under subsection 6:

Sec. 14-183. Conditional uses.

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

(a) "A" group conditional use. Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:

1. Signs: Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.
2. Circulation: No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.
3. Conditions specific to major or minor auto service stations, car washes and automobile dealerships:
 - a. A landscaped buffer, no less than 5 feet wide, shall be located along street frontages (excluding driveways). The buffer shall consist of a variety of plantings in accordance with the City of Portland Technical Manual; and
 - b. Car washes shall be designed to avoid the tracking of residual waters into the street.
4. Reserved.
5. Reserved.
6. Drive-throughs: Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:
 - a. Location of Drive-throughs: Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any adjoining property located in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.
 - b. Noise: Any speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other

noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.

- c. Lighting: Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in 14-526.
- d. Screening and Enclosure: Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts; and
- e. Pedestrian access: Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.
- f. Hours of Operation: The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.

IV. Planning Board and Staff Analysis

Pharmacies and banks seek drive-through windows to serve their clientele. The intensity and impacts of the drive-throughs are generally less than those associated with fast food restaurants, coffee shops, bottle redemption centers, and other uses. While pharmacy and bank drive-throughs are less intensive, the auto-oriented use does impact the pedestrian environment and Portland's goal for a walkable city. In addition, Portland has a stated goal to provide for more housing on upper floors, particularly along major transit corridors. The proposal to require bank and pharmacy drive-throughs to provide housing supports economic development objectives of the Comprehensive plan and creates an incentive for more housing along transportation corridors.

Housing above food related drive-throughs is less viable than over banks and pharmacies and food related drive-throughs generate the most traffic and impacts on the urban streetscape. Allowing drive throughs in projects that provide other significant policy and design benefits will also leverage well-funded and motivated retail users – such as pharmacies – to make major investments in City policy goals. By allowing a well-screened drive through on the first floor, there is much more likely to be such investment, which would include good urban design elements in a multistory building, and also produce housing. Limiting the drive through types to pharmacies and banks minimize the negative externalities of other drive through uses while leveraging this private investment that might not occur otherwise.

This proposal is an innovative approach to regulating drive-throughs in an urban area. Local examples, include the Bangor Savings Bank on Marginal Way, which has a drive-through facility at the rear of the 3-story structure meeting the conditional use standards for the B-5 zone. Bangor Savings also has a drive-through facility at their two-story building on Middle Street. While it does not have a drive-through facility, the c-Port Credit Union on the corner of India and Middle met the minimum height requirements of the India Street Form Based Code by including a third-floor residential unit over the retail and office facilities located on the first and second floors.

There are examples in other urban areas where drive-throughs are incorporated in larger scale developments. Here are examples from Edina, Indianapolis, and Milwaukee.

<https://finance-commerce.com/2015/08/semper-plans-apartments-atop-walgreens-store-in-edina/>

<https://www.ibj.com/blogs/3-property-lines-scott-olson/post/43955-update-drugstore-drive-through-gets-city-clearance>

<https://patch.com/wisconsin/shorewood/relocation-of-walgreens-a-key-part-of-plans-for-32-mi311b24c213>

V. Comprehensive Plan

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



The comprehensive plan includes the following economic and housing goals that are relevant to the proposed text amendments:

- Create economic prosperity by growing Portland's tax and employment base.
- Invest in, attract, and retain human capital to support a growing economy.
- Respect that our unique quality of place is key to our current and future economic success.
- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.
- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.

VI. PLANNING BOARD RECOMMENDATION

Vice Chair Mazer moved and Maggie Stanley seconded a motion that on the basis of the material provided in the Planning Board report, dated January 18, 2019, public testimony, a review of applicable policies, and other information, the Planning Board finds that the proposed text amendments to the Section 14-182, Permitted Uses, and Section 14-183- Conditional Uses of the B-2, B-2b, and B-2c zones of the Land Use Code are consistent with the Comprehensive Plan and recommends adoption of the proposed amendments to the City Council. The vote was 7-0.

Attachments:

- A. Proposed Ordinance Amendments
- B. Drive-through Chart for Business Zones
- C. B-2 Zone Locations- Off Peninsula
- D. B-2 Zone Locations- On Peninsula

DIVISION 10. B-2 AND B-2b COMMUNITY BUSINESS ZONES*

Sec. 14-181. Purpose.

(a) B-2 Community Business Zone

The purpose of the B-2 community business zone is:

1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community.
2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.
4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.

(b) B-2b Community Business Zone

The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.

(c) B-2c Community Business Zone

To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

(Ord. No. 293-88, 4-4-88; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Substitute Ord. No. 189-00, §2, 4-24-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 244-09/10, 6-21-10)

*Editor's Note: Order No. 25, adopted 7-07-99, enacted an emergency 120-day moratorium on drive-through facilities on lots in B-2 Zone adjacent to lots with residential uses effective 7-07-99 through 11-1-99; Ord. No. 94A, adopted 11-01-99 extended the moratorium on said drive-through facilities through December 15, 1999.

Sec. 14-182. Table of uses.

Group ¹	Use	B-2 ²	B-2b	B-2c
R	Single family home	Y	Y	Y
R	Two family home	Y	Y	Y
R	Three family home	Y	Y	Y
R	Multifamily housing	Y	Y	Y
R	Combined live/work spaces provided the living space is at least 33% of the total net floor area	Y	Y	Y
B	General business and professional offices, as defined in section 14-47, and offices of trades	Y	Y	Y
B	Personal services, as defined in section 14-47	Y	Y	Y
B	General retail establishments	Y	Y	Y
B	Pharmacies with retail sales	Y	Y	Y
B	Banking Facilities	Y	Y	Y
B	Restaurants, except that restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m. unless otherwise authorized by the City Council	Y	Y	Y
B	Drinking establishments, as defined in section 14-47	Y	Y	N
B	Billiard parlors	Y	Y	Y

Group ¹	Use	B-2 ²	B-2b	B-2c
B	Funeral homes	Y	Y	Y
B	Miscellaneous repair services, excluding motor vehicle repair services	Y	Y	Y
B	Communication studios or broadcast and receiving facilities	Y	Y	Y
B	Health clubs and gymnasiums	Y	Y	Y
B	Veterinary hospitals and clinics provided there is no outdoor kennel	Y	Y	Y
B	Theaters and performance halls	Y	Y	Y
B	Hotels, Motels and Inns	Y	Y	Y
B	Bakeries, breweries, distilleries, commercial kitchens and similar uses with a retail component and with a total floor area under 10,000 net sf.	Y	Y	Y
B	Bakeries, breweries, distilleries, commercial kitchens and similar uses with a retail component and with a total floor area of 10,000 net sf. or greater	Y	N	N
B	Expansion of existing dairies	Y	Y	Y
B	Registered medical marijuana dispensaries	Y	C	C
I	Long term, extended and intermediate care facility	Y	Y	Y
I	Clinics, as defined in section 14-47	Y	Y	Y
I	Places of assembly	Y	Y	Y
I	Kindergarten, elementary, middle and secondary schools	Y	Y	Y
I	College, university, trade schools	Y	Y	Y
I	Municipal buildings and uses	Y	Y	Y
O	Lodging houses	Y	Y	Y
O	Day care facilities	Y	Y	Y
O	Accessory uses, as provided in section 14-404 ³	Y	Y	Y
O	Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding. A bed and breakfast may include a meeting facility if for weddings, seminars, receptions, business	Y	Y	Y

Group ¹	Use	B-2 ²	B-2b	B-2c
	meetings and the like and if the facility is less than 4,000 net sf.			
O	Studios for artists and craftspeople, less than 4,000 net sf. per space	Y	Y	Y
W	Wind energy systems, as defined and allowed in Article X, Alternative Energy	Y	Y	Y
U	Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan), sections 14-522 and 14-523 notwithstanding	Y	Y	Y
A	Drive-throughs associated with a permitted or conditional <u>a pharmacy or banking facility</u> use ⁴	C	NC	C
A	Auto service stations	C	N	N
A	Expansion of auto service stations in existence as of November 15, 1999	C	C	C
A	Car washes	C	C	C
A	<u>Automobile dealerships</u>	C	C	C
M	Printing and publishing establishments of 10,000 gross sf. or less	C	C	C
M	Expansion of existing printing and publishing establishments of greater than 10,000 gross sf. in existence since April 4, 1988	C	C	C
M	Wholesale distribution establishments of 10,000 gross sf. or less	C	C	C
M	Research and development and related production establishments of 10,000 gross sf. or less	C	C	C

¹ Uses within the same group lettering may be substituted without being considered a change of use under zoning, provided all dimensional and other requirements of this

section are met. Other reviews may be required under City regulations, including but not limited to building permit, subdivision and site plan reviews. However, no additional parking shall be required for changes within the same use group for a change in total floor area up to 10,000 sf, except for the provision of additional housing units.

Use Groups include the following:

R = Residential
B = Business
I = Institutional
O = Other
U = Utility
A = Auto related
M = Manufacturing/Processing/and other Industrial

2 Y-Permitted N-Not Permitted

C-Conditional use, see section 14-183 for specific standards in addition to the general conditional use standards

3 Expansion of accessory uses into space used by a permitted use shall not be considered a change of use

4 See conditional use standards for drive throughs. Drive throughs are not permitted for restaurant, bakery, or other food or beverage service uses.

(Ord. No. 293-88, 4-4-88; Ord. No. 39-96, § 2, 10-7-96; Ord. No. 125-97, § 6, 3-3-97; Ord. No. 164-97, § 2, 12-1-97; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 118-00, 11-20-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 244-09/10, 6-21-10; Ord. No. 283-09/10, 7-19-10 emergency passage; Ord. 10 10/11, 8-2-10; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 113-11/12, 2-22-12; Ord. No. 41-12/13, 9-5-12; Ord. No. 263-13/14, 6-16-14; Ord. 90-14/15, 11-17-2014; Ord. 100-15/16, 11-16-2015; Ord. 159-16/17, 3-20-2017)

Sec. 14-183. Conditional uses.

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

...

6. Drive-throughs: Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:

~~a. a. Location of Drive-throughs: Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than forty (40) feet from any adjoining property located in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.~~

Drive throughs are only permitting in buildings of 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units. The drive through shall be screened as much as practical from the front of the building and shall be no closer than 40 feet from abutting residential zones and 25 feet from the street line. Adequate stacking capacity much be provided on site without impeding vehicular circulation or creating hazards to

pedestrian or vehicle circulation on or off site.

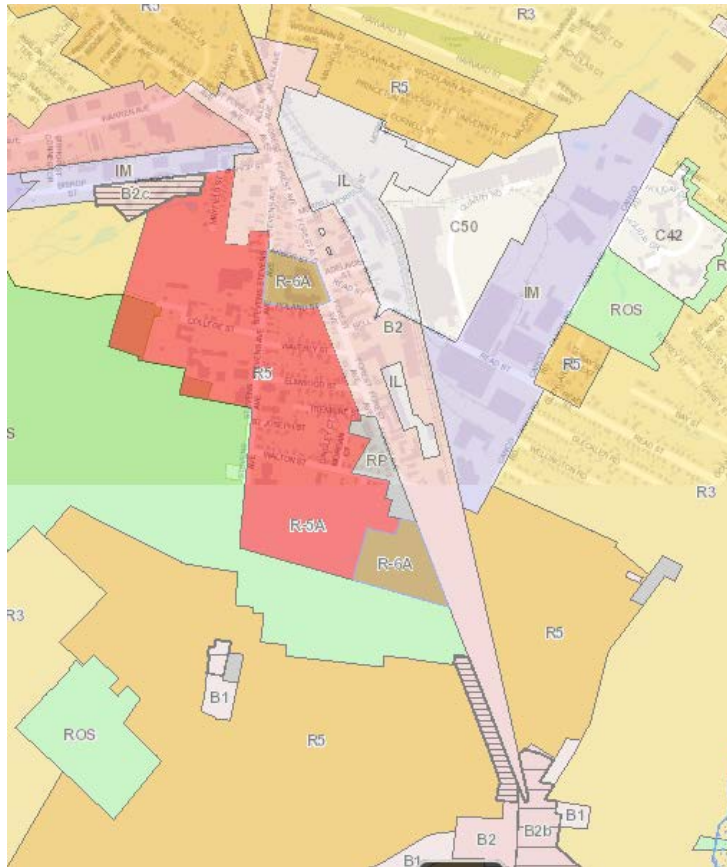
- b. Noise: Any speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.
- c. Lighting: Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in 14-526.
- d. Screening and Enclosure: Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts; and
- e. Pedestrian access: Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.
- f. Hours of Operation: The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.

Drive-Through Regulations for Portland's Business Zones				
Business Zones	Not Permitted	Permitted	Conditional Use	Regulatory Provisions
Neighborhood B-1	✓			
Community Business- B-2			✓	Drive-throughs associated with a permitted or conditional use - Conditional Use reviewed by Planning Board and zonespecific standards address, signs, circulation, location of drive-through features, noise, lighting, screening and enclosure, pedestrian access, and hours of operation. (see complete list of standards in report on pages 3 and 4)
B-2b	✓			
B-2c			✓	(same as B-2)
Airport Business	✓			
Downtown Business B-3, B-3b & B-3c	✓ Restaurants – no drive-through allowed			
			✓ Conditional use for banking facilities (only) by PB	Drive-up banking services, provided that drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street line. 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. Such uses shall also be in compliance with the applicable standards contained in the Downtown Urban Design Guidelines, a copy of which is on file in the department of planning and urban development. No other type of drive-up use shall be permitted.
Island Business	✓			
Commercial Corridor B-4		✓		Accessory uses, as provided in section 14-404; and

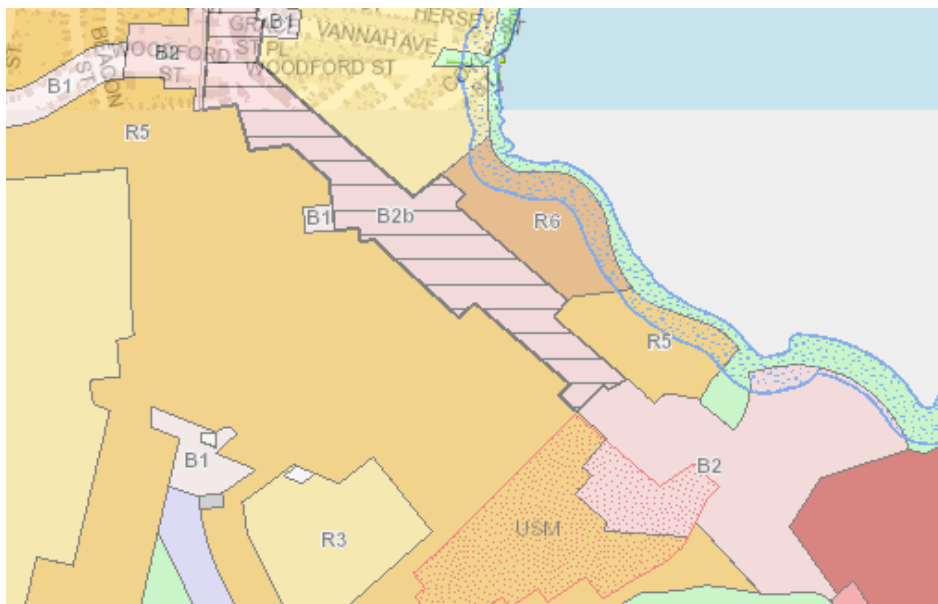
Urban Commercial Mixed Use- B-5	✓ Not permitted between Franklin and Forest	✓	✓ Banking Services	Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, excluding in the B-5b all drive-up services for retail, banking, or automotive repair uses. In the B-5 zoning district between Forest Avenue and Franklin Street, all drive-up services for all retail or drive-up automotive repair uses are prohibited. In the B-5 zone between Forest Avenue and Franklin Street, surface parking lots shall be considered a conditional use subject to the conditional use section of the B-5 zone.
B-5b	✓			Excerpt - Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, excluding in the B-5b all drive-up services for retail, banking, or automotive repair uses.
Eastern Waterfront Mixed B-6		✓ May allow as an accessory use	✓	Banking services, excluding vehicular drive-up services 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.
ISFBC	✓			1 . Prohibited uses: Drive-through facilities;
Mixed Use- B-7	✓		✓	Banking services, excluding vehicular drive-up services (see also conditional use section, [c][3]; Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. All drive-up services for all retail

				or drive-up repair facilities are prohibited except that bank drive-up services, where permitted, area conditional use. 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 Street/Forest Avenue.
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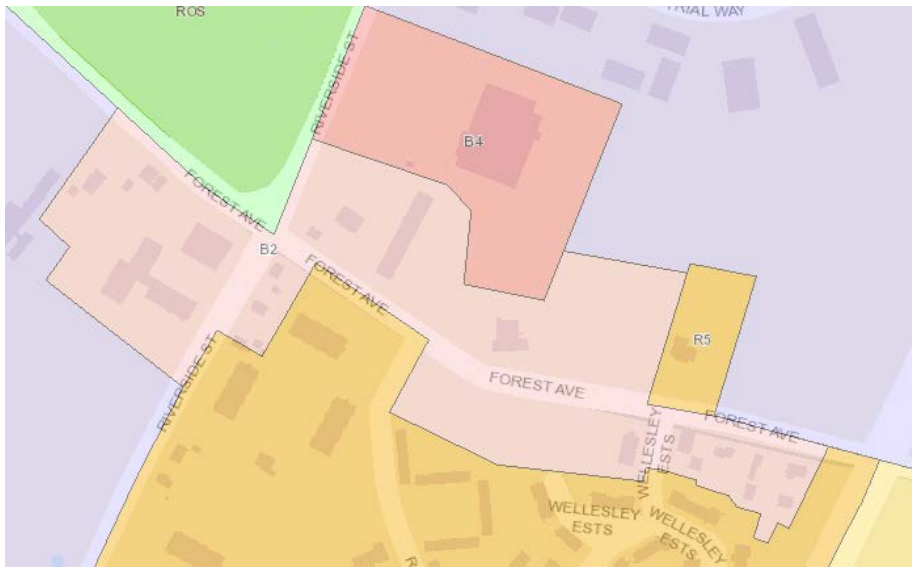
**Community Business B-2 Zones in Portland
Off- Peninsula Locations
Forest Avenue Corridor -Woodford to Morrill's Corner**



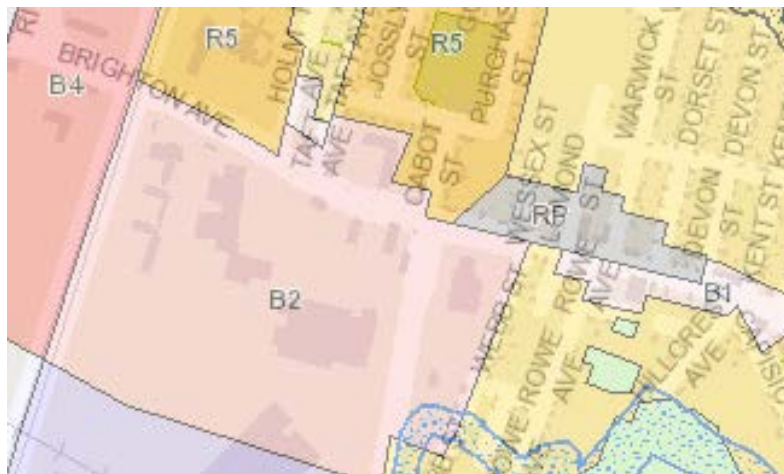
I-295 to Woodford



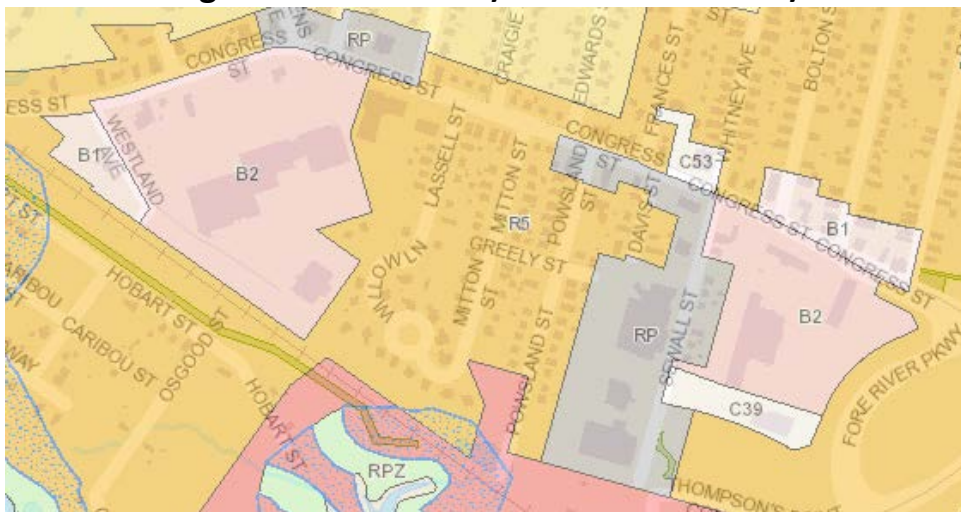
Outer Forest near Westbrook Line



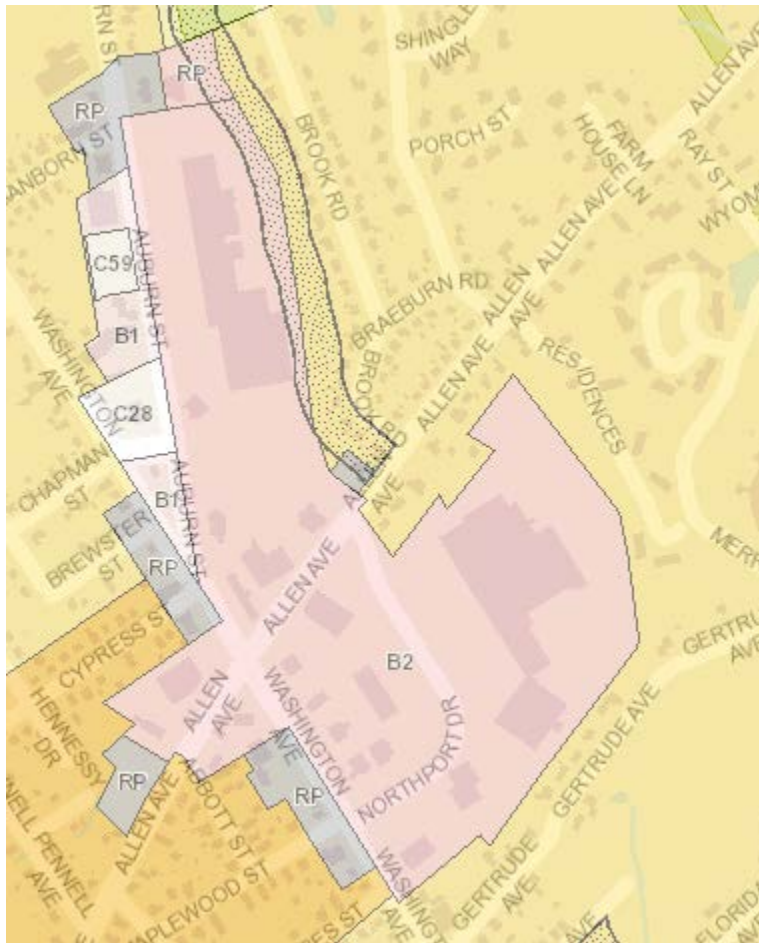
Brighton Avenue



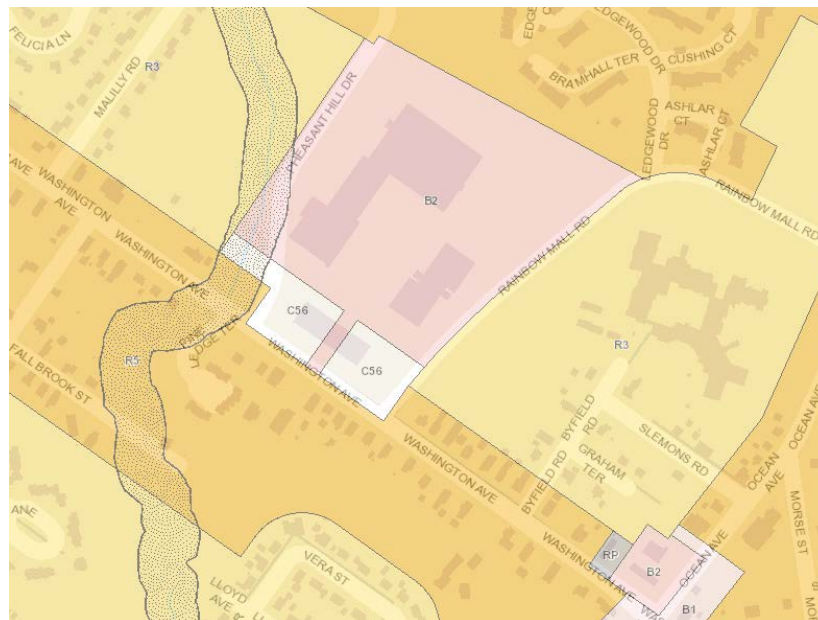
Off-Peninsula Congress Street Vicinity of Fore River Parkway and Stevens Avenue



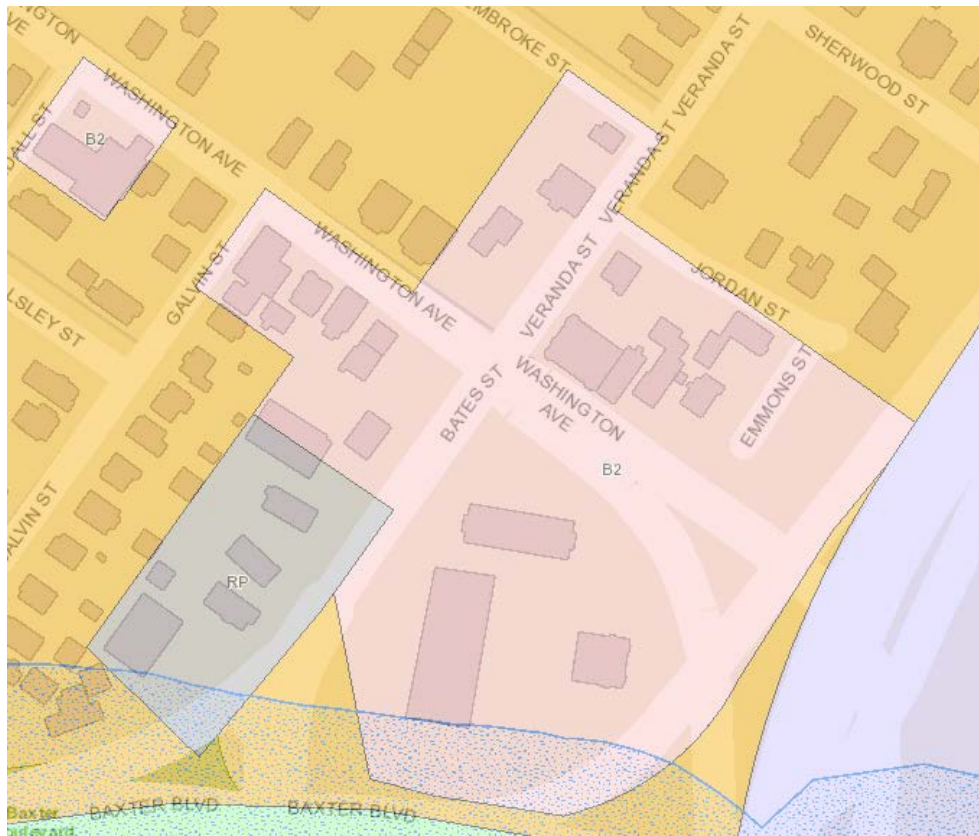
Washington Avenue Corridor - Washington, Allen Avenue, Northport and Northgate



Washington Ave at Rainbow Mall Road and Ocean Avenue

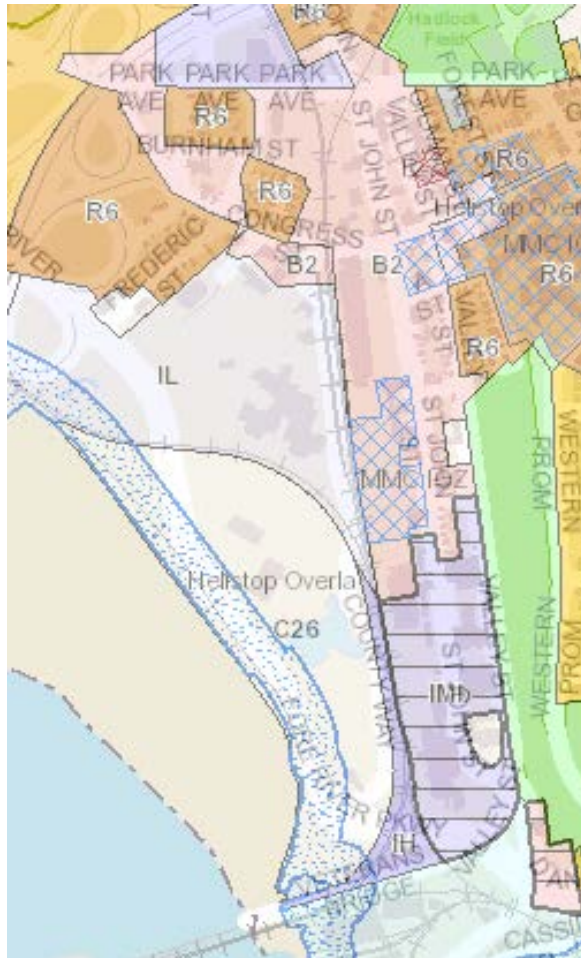


Washington Ave -Vicinity of Veranda Street

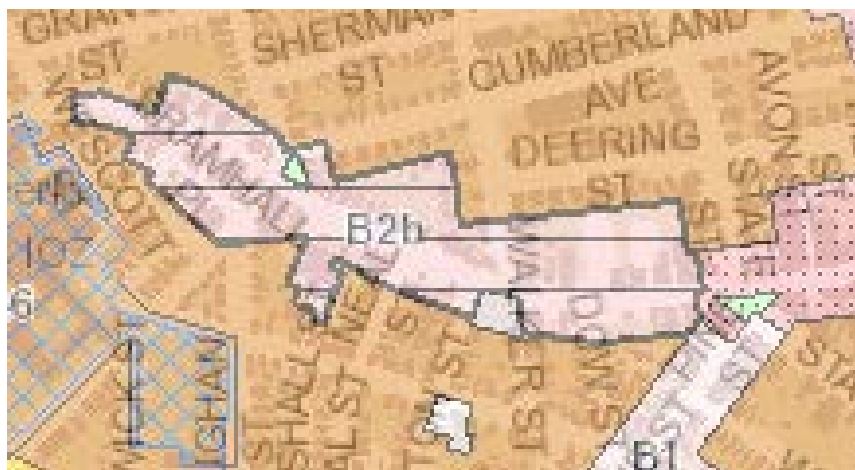


Community Business B-2 Zones in Portland Peninsula Locations

Libbytown - St. John , Congress and Park



Congress Street between Westcott and Park



Bayside – Forest, Park and Cumberland



Washington Avenue Corridor



ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

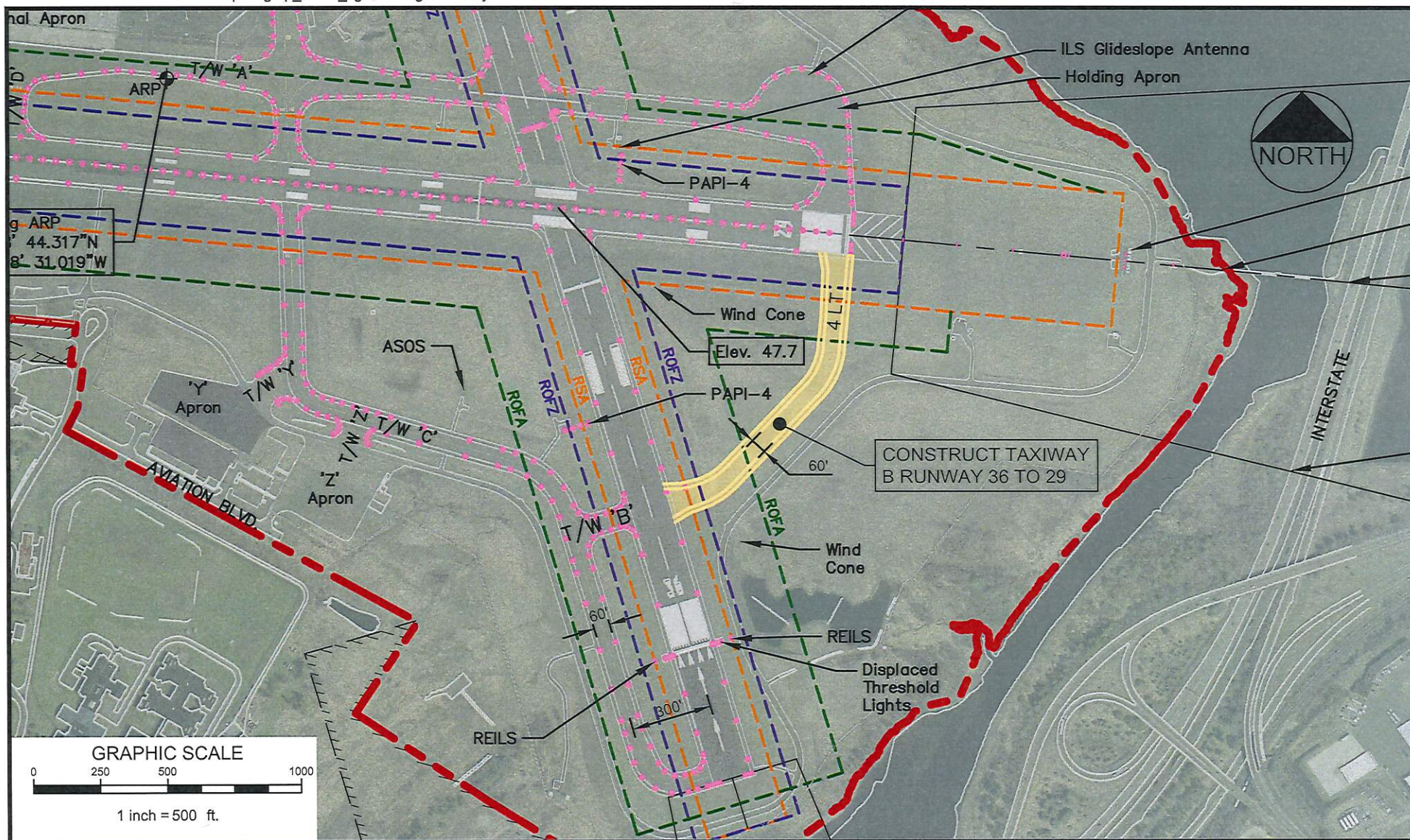
**ORDER APPROVING FEDERAL AVIATION ADMINISTRATION
AIRPORT IMPROVEMENT PROGRAM GRANTS**

ORDERED, that grant funding of approximately \$7.67 million dollars from the Federal Aviation Administration (FAA) Airport Improvement Program (AIP) is hereby approved for the Portland International Jetport (Jetport) for the following projects:

- The construction of Taxiway B to connect Runway 36 to 29;
- The expansion of the terminal aircraft apron to provide an additional aircraft deicing pad, aircraft hold area; and aircraft overnight parking; and

BE IT FURTHER ORDERED, that the funds for said project are hereby appropriated from federal and state grant funding, and the local share of the projects shall be appropriated as part of the Jetport's budget; and

BE IT FURTHER ORDERED, that the City Council hereby authorizes the Director of the Jetport to be the official representative for these AIP grants, as required by the FAA, and to execute grant documents and any other related documents necessary or convenient to carry out the intent of said documents.



Stantec
482 Payne Road Scarborough Court
Scarborough, Maine 04074-8929
Tel. 207.883.3355
www.stantec.com

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PORTLAND INTERNATIONAL AIRPORT
FIGURE TO ACCOMPANY PROJECT
READINESS FORM

File Name: op_m116_figures

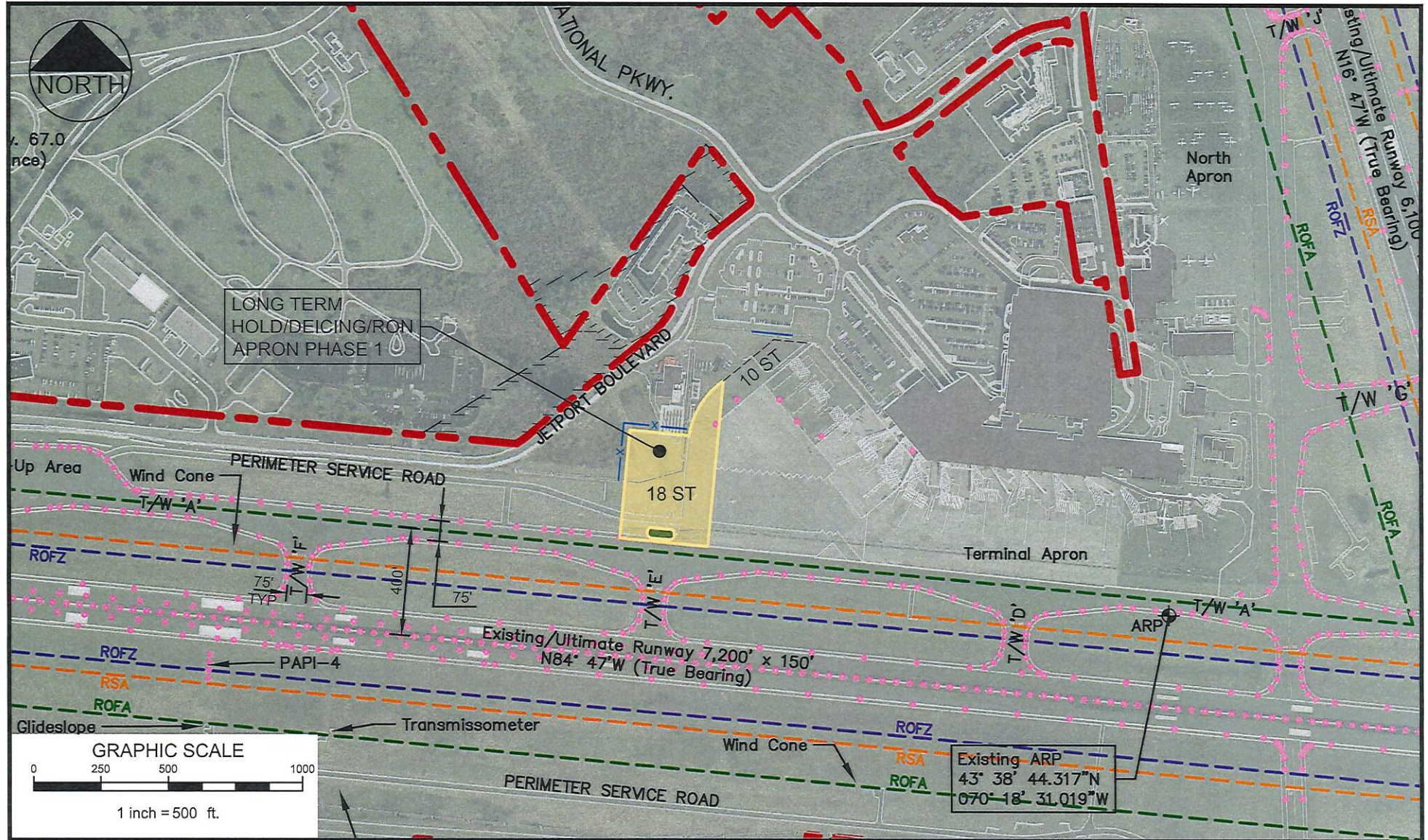
LA	DDA	DDA	2018.11.28
DWN.	CHKD.	DSGN.	DATE

Title

CONSTRUCT TAXIWAY B
RUNWAY 36 TO RUNWAY 29

Figure No.

1



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FIGURE TO ACCOMPANY PROJECT
READINESS FORM

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LA	DDA	DDA	2018.11.28
DWN.	CHKD.	DSGN.	DATE

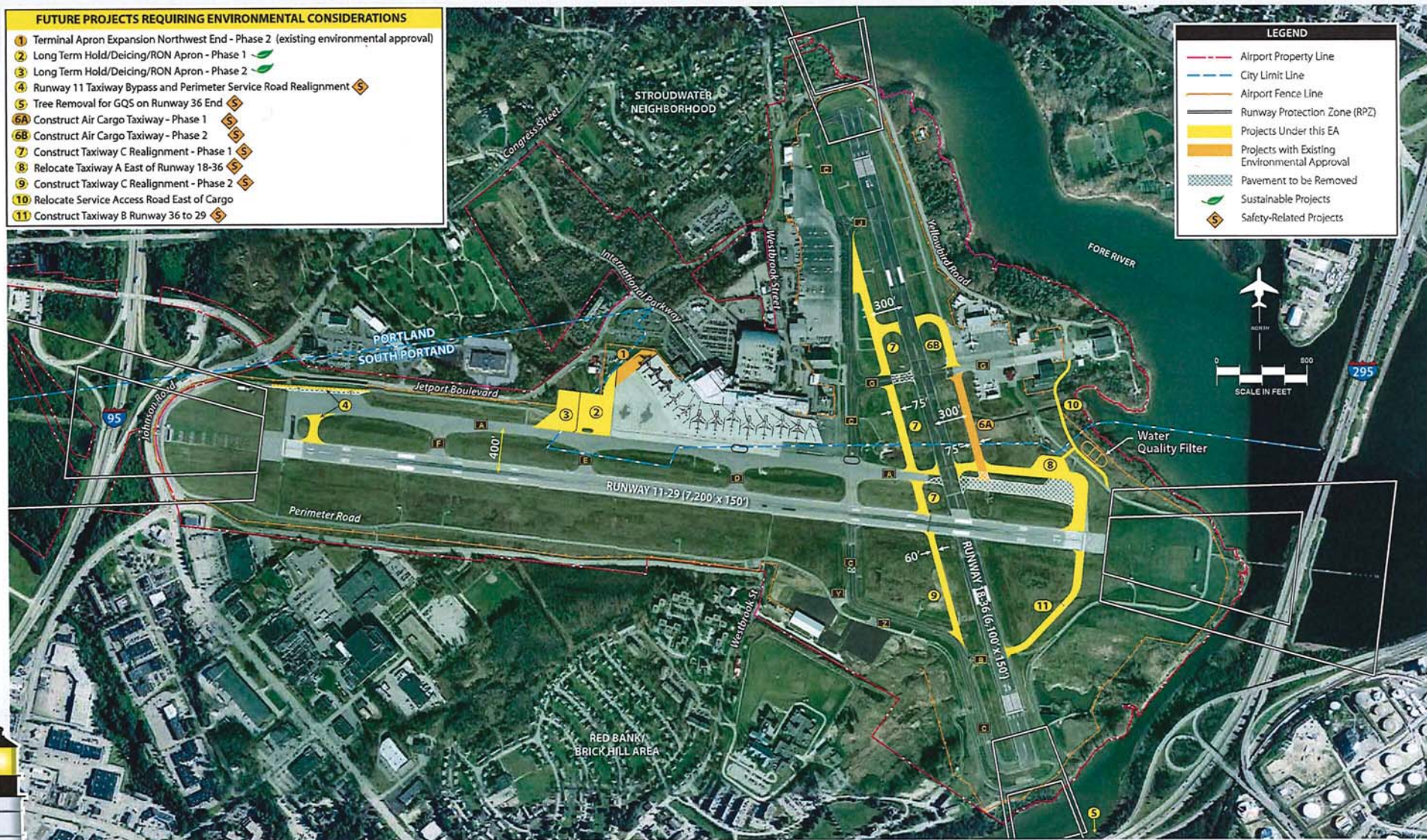
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LONG TERM HOLD/DEICING/ROF
APRON - PHASE 1

Figure No.

1

FUTURE PROJECTS AT PORTLAND INTERNATIONAL JETPORT





ASSURANCES

Airport Sponsors

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this grant agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this grant agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph 1 also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. Airport Planning Undertaken by a Sponsor.

Unless otherwise specified in this grant agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 25, 30, 32, 33, and 34 in Section C apply to planning projects. The terms, conditions, and assurances of this grant agreement shall remain in full force and effect during the life of the project; there shall be no limit on the duration of the assurances regarding Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements.

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

Federal Legislation

- a. Title 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act – 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.^{1 2}
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).¹
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.¹
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f))
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 -42 U.S.C. 4151, et seq.¹
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.¹
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.

- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

Executive Orders

- a. Executive Order 11246 - Equal Employment Opportunity¹
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 - Environmental Justice

Federal Regulations

- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. [OMB Circular A-87 Cost Principles Applicable to Grants and Contracts with State and Local Governments, and OMB Circular A-133 - Audits of States, Local Governments, and Non-Profit Organizations].^{4, 5, 6}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment
- d. 14 CFR Part 13 - Investigative and Enforcement Procedures 14 CFR Part 16 - Rules of Practice For Federally Assisted Airport Enforcement Proceedings.
- e. 14 CFR Part 150 - Airport noise compatibility planning.
- f. 28 CFR Part 35- Discrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- i. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- j. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹
- k. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and federally assisted contracting requirements).¹
- l. 49 CFR Part 18 - Uniform administrative requirements for grants and cooperative agreements to state and local governments.³
- m. 49 CFR Part 20 - New restrictions on lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 - Participation by Disadvantage Business Enterprise in Airport Concessions.

- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.^{1 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- t. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 41 - Seismic safety of Federal and federally assisted or regulated new building construction.

Specific Assurances

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

Footnotes to Assurance C.1.

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 49 CFR Part 18 and 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation and circular shall also be applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

⁴ On December 26, 2013 at 78 FR 78590, the Office of Management and Budget (OMB) issued the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR Part 200. 2 CFR Part 200 replaces and combines the former Uniform Administrative Requirements for Grants (OMB Circular A-102 and Circular A-110 or 2 CFR Part 215 or Circular) as well as the Cost Principles (Circulars A-21 or 2 CFR part 220; Circular A-87 or 2 CFR part 225; and A-122, 2 CFR part 230). Additionally it replaces Circular A-133 guidance on the Single Annual Audit. In accordance with 2 CFR section 200.110, the standards set forth in Part 200 which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies, including the Department of Transportation, must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

⁵ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

⁶ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this grant agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this grant agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this grant agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. It will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this grant agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this grant agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this grant agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the airport will be operated and maintained in accordance Title 49, United States Code, the regulations and the terms, conditions and assurances in this grant agreement and shall insure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 44706 of Title 49, United States Code, and all the security equipment required by rule or regulation, and

has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this grant, the total cost of the project in connection with which this grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this grant agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this grant agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this grant agreement, and, upon approval of the Secretary, shall be incorporated into this grant agreement. Any modification to the approved plans,

specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this grant agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal,

state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the airport's aeronautical facilities whenever required;
 - 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 - 3) Promptly notifying airmen of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or

to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to-

- 1) furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 - 2) charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
 - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
 - e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
 - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees [including, but not limited to maintenance, repair, and fueling] that it may choose to perform.
 - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
 - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
 - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 - 1) If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or

operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

- 2) If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
 - 3) Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at Section 47102 of title 49 United States Code), if the FAA determines the airport sponsor meets the requirements set forth in Sec. 813 of Public Law 112-95.
- b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of Section 47107 of Title 49, United States Code.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this grant agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1) all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2) all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that –

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. It will keep up to date at all times an airport layout plan of the airport showing
 - 1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and

roads), including all proposed extensions and reductions of existing airport facilities;

- 3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon; and
 - 4) all proposed and existing access points used to taxi aircraft across the airport's property boundary. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.
- b. If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR § 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by, or pursuant to these assurances.
- b. Applicability
 - 1) Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 - 2) Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.

- 3) Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1) So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
- 2) So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

“The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

e. Required Contract Provisions.

- 1) It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
- 2) It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
- 3) It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
- 4) It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a

covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:

- a) For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b) For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order, (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund. If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.
- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, (1) upon application to the Secretary, be reinvested or transferred to another

eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order: (1) reinvestment in an approved noise compatibility project, (2) reinvestment in an approved project that is eligible for grant funding under Section 47117(e) of title 49 United States Code, (3) reinvestment in an approved airport development project that is eligible for grant funding under Sections 47114, 47115, or 47117 of title 49 United States Code, (4) transferred to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport, and (5) paid to the Secretary for deposit in the Airport and Airway Trust Fund.

- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.
- d. Disposition of such land under (a) (b) or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

It will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services with respect to the project in the same manner as a contract for architectural and engineering services is negotiated under Title IX of the Federal Property and Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary including but not limited to the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated _____ (the latest approved version as of this grant offer) and included in this grant, and in accordance

with applicable state policies, standards, and specifications approved by the Secretary.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its DBE and ACDBE programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in section 47102 of title 49, U.S.C.) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that-
 - 1) Describes the requests;
 - 2) Provides an explanation as to why the requests could not be accommodated; and
 - 3) Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

MEMORANDUM
City Council Agenda Item

FROM: Mary Davis, Division Director

DATE: February 21, 2019

SUBJECT: **Order 173-18/19 Setting Public Hearings on Fiscal Year 2020 Annual Action Plan and Appropriations for Community Development Block Grant Program, HOME Program and Emergency Solutions Grant Program - Sponsored by Jon P. Jennings, City Manager**

SPONSOR: Jon P. Jennings, City Manager
(If sponsored by a Council committee, include the date the committee met and the results of the vote.)

COUNCIL MEETING DATE ACTION IS REQUESTED:

1st Reading 03/04/2019

Final Action 03/04/2019

Can action be taken at a later date: No (If no why not?) Notice of the public hearings must be published two weeks prior to the first meeting date.

PRESENTATION: (List the presenter(s), type and length of presentation)

I. SUMMARY

Request to set public hearings for FY2020 Annual Action Plan and appropriation of funding for the Community Development Block Grant Program (CDBG), HOME Program and Emergency Solutions Grant (ESG) Program.

II. AGENDA DESCRIPTION

As required under our Housing and Urban Development-approved citizen participation process, Public Hearings are held each spring to consider the City's Housing and Community Development Program proposal for the ensuing fiscal year. The Community Development Block Grant (CDBG) Annual Allocation Committee, appointed by Council, reviewed each application and made funding recommendations. The Committee is given an opportunity to make a presentation to the Council, and citizens may comment on the City's annual plan for the use of CDBG, HOME and Emergency Solutions Grant funds.

Public hearings will be held on March 18, 2019 and April 8, 2019 at City Council meetings held at 5:30 p.m., both in Portland City Hall, Council Chambers, 389 Congress Street.

Five affirmative votes are required for passage after public comment.

III. BACKGROUND

IV. INTENDED RESULT AND/OR COUNCIL GOAL ADDRESSED

Set dates for public hearings for FY2020 Annual Action Plan and appropriation of funding for CDBG, HOME and ESG Programs.

V. FINANCIAL IMPACT

VI. STAFF ANALYSIS AND BACKGROUND

Two public hearings are required under our HUD citizen participation process.

VII. RECOMMENDATION

VIII. LIST ATTACHMENTS

1. CDBG Order Public Hearings FY2020 3.4.2019

Prepared by:

Mary Davis, Division Director

Date: 02/21/2019

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
PIOUS ALI (A/L)
JILL C. DUSON, (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

**ORDER SETTING PUBLIC HEARINGS ON
FISCAL YEAR 2020 ANNUAL ACTION PLAN
AND APPROPRIATIONS FOR COMMUNITY DEVELOPMENT
BLOCK GRANT PROGRAM, HOME PROGRAM, AND EMERGENCY SOLUTIONS
GRANT PROGRAM**

ORDERED, that public hearings be held on the Fiscal Year 2020 Annual Action Plan and appropriations for the Community Development Block Grant Program, HOME Program, and the Emergency Solutions Grant Program; and

BE IT FURTHER ORDERED, that such hearings be held on March 18, 2019 and April 8, 2019 at City Council Meetings held at 5:30 p.m., in Portland City Hall Council Chambers, 389 Congress Street.

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

KIMBERLY COOK (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

**ORDER AUTHORIZING THE FINANCE DIRECTOR TO ACCEPT
DONATIONS FOR THE PORTLAND COMMUNITY SUPPORT FUND**

ORDERED, that the Finance Director is hereby authorized to accept donations in the name of
and on behalf of the Portland Community Support Fund and to hold said funds for
that purpose.