

Order 62-06/07
Given first reading: 10/4/06
Public Hearing & Passage 10/16/06: 7-0
(Leeman, Geraghty gone)

JAMES I. COHEN (MAYOR)(5)
JILL C. DUSON (A/L)
JAMES F. CLOUTIER(A/L)
NICHOLAS M. MAVODONES (A/L)
EDWARD J. SUSLOVIC (A/L)

CITY OF PORTLAND
IN THE CITY COUNCIL

WILLIAM R. GORHAM (1)
KAREN A. GERAGHTY (2)
DONNA J. CARR (3)
CHERYL A. LEEMAN (4)

**ORDER AUTHORIZING AMENDMENT TO CITY CODE
SEC. 14-49 (ZONING MAP AMENDMENT)
RE: CONDITIONAL REZONING FOR 121-135 SHERIDAN STREET**

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

**Sheridan Street LLC
Sheridan Street, Portland, Maine**

This contract made this ____ day of _____, 2006 by **SHERIDAN STREET LLC**, a Maine Limited Liability Corporation having a place of business at One Longfellow Square, Portland, Maine (hereinafter "Developer").

WHEREAS, DEVELOPER owns property at 121-135 Sheridan Street, Portland, Maine; and

WHEREAS, DEVELOPER filed a request for a Conditional Rezoning with the City of Portland ("City") to modify an existing R-6 zone to accommodate housing with reduced parking; and

WHEREAS, the at 121-135 Sheridan Street property is more specifically described and shown on the Portland Assessors Map, Parcels 13-K-2 and 13-K-17 (the "Property"); and

WHEREAS, the Portland Planning Board determined the rezoning would provide needed housing in the City and would not negatively impact the surrounding residential community; and

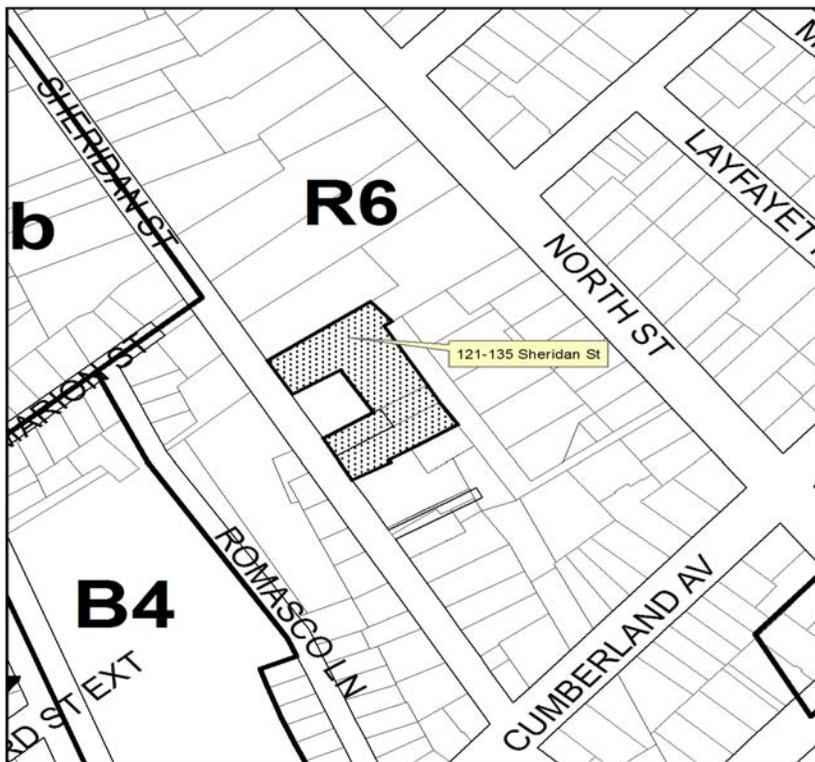
WHEREAS, the Portland Planning Board, pursuant to 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberations, recommended the rezoning of the Property, subject, however, to certain conditions; and

WHEREAS, the City, by and through its City Council, has determined that the rezoning, necessary because of the unusual nature of the development, with conditions and restrictions, would be pursuant to and consistent with the City's Comprehensive Plan and would not unreasonably interfere with the existing and permitted uses within the underlying R-6 zone; and

WHEREAS, the **DEVELOPER** has agreed to enter into this contract, with its concomitant terms and conditions, which shall hereinafter bind **DEVELOPER** its successors and assigns; and

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

1. The CITY shall amend the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Development, and incorporated by reference into the Zoning Ordinance by §14-49 of the Portland City Code, by adopting the following map change.



**City of Portland
Proposed Conditional Rezoning
for 121 -135 Sheridan Street**



0 37.5 75 150 225 300 Feet

Map prepared by the City of Portland's Department of Planning & Development

2. The use of the Property shall consist of a building containing a maximum of twenty one (21) unit residential units located at the rear of the site (the “Residential Condominium”) with at least twenty-nine (29) on-site parking spaces for the use of the Residential Condominium; and an existing single family residential house located at the front of the lot along Sheridan Street (the Single-Family House”) with two 2 on-site parking spaces for the use of the Single Family House (hereinafter collectively, the “Development”).
3. The Property will be developed substantially in accordance with the Site Layout Plan (the “Site Plan”), Attachment 1, by MRLD, LLC dated _____ and the conceptual elevations (the “Elevations”), Attachment 2, by TFH Architects dated _____, 2006.
4. The Planning Board shall review and approve the Site Plan according to the site plan and subdivision provisions of the Portland Land Use Code and nothing herein shall prevent the Planning Board from imposing conditions otherwise required to bring this development into compliance with those subdivision and site plan standards.
5. The underlying zoning requirements of the R-6 zone are modified as follows:
 - a. The maximum density shall be no greater than twenty one (21) residential units to be located on the lot within the Residential Condominium shown on Attachment 1 and the existing Single Family House located at the front of the lot as shown on Attachment 1; and
 - b. A minimum of thirty one (31) on-site parking spaces (29 shown for the Residential Condominium and 2 shown for the Single Family House) shall be provided and each unit shall be designated at least one (1) on-site parking space; and
 - c. For the Residential Condominium, the front yard setback shall be five (5) feet to the terrace wall as shown on Attachment ____; the northerly side yard setback shall be graduated from 3 feet along Sheridan Street to 14’5” feet at the rear of the site with a deck within 2’ of the property line and the southerly side yard setback shall range from three (3) to five (5) feet at the location of the surface parking all as more particularly shown on Attachment _____. The rear yard setback range shall be approximately 16’ to 17’9”.
 - d. The maximum lot coverage shall be no greater than 43.3% on the lot containing the Residential Condominium as shown on Attachment 1; the maximum lot coverage on the lot containing the Single Family House shall be maintained in accordance with the requirements of the R-6 zone.
 - e. The open space ration shall be no less than 25.2% of the land area of the lot containing the Residential Condominium as shown on Attachment 1; the

open space ratio for the lot containing the Single Family House shall be no less than required under the R-6 zone.

Otherwise, the provisions of §14-139 through 14-140 (the R-6 Zone) of the Portland City Code shall apply to this development. Alterations and improvements may be made to the Single Family House in accordance with the provisions of the R-6 Zone, but no change in use or the number of residential units in excess of one may be made to the Single Family House, except that home occupations shall be permitted therein in accordance with the provisions of the R-6 Zone. The conveyance of any property interest in the single family house shall contain a restriction on the residential use of the property to no more than one residential unit.

6. The **DEVELOPER** shall undertake the following:
 - a. The **DEVELOPER** shall deed to the City an easement for public access over the driveway shown on Attachment 1 for purposes of public pedestrian passage and access to the community gardens. The final location of the easement to be determined by the City and a deed executed at time of site plan approval; and
 - b. The installation of utilities stubs (water and electric) from the building to the boundaries of the adjacent City Owned property as shown on Attachment 3; and
 - c. The payment of a monetary contribution in the amount of \$23,000.00 to be allocated as follows: \$5,000 toward the implementation of the improvement project at the Washington Avenue/Walnut Street intersection; \$18,000 to be placed in an established Parks and Recreation fund to contribute to the cost of providing community improvements, such as trails, community gardens, park improvements, etc. in the vicinity of the development.
7. The initial sale price of two of the twenty-one (21) units in the Residential Condominium will not exceed a total cost of \$200,000 (Two-Hundred Thousand Dollars) and there shall be an income and equity limitation for any future sale of those units to ensure affordability. The equity and income limitations will be determined by the City Department of Planning and Development in consultation with the applicant.
8. In order to preserve affordability of at least two (2) of the units in the Residential Condominium at least two units in the Residential Condominium shall be not more than 850 square feet, and shall not contain more than one bedroom, and shall be located generally in the eastern wing of the building and such units shall be subject to a restriction to be contained in the condominium documents that prohibits combining such units with any other unit in the condominium.

9. In the event the development described herein is not commenced within two (2) years from the date of this rezoning, or an additional one year if, in the sole discretion of the City Planning Department, it deems such extension to be appropriate, this contract shall become null and void and the Property shall revert back to the underlying R-6 zone.

10. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit **DEVELOPER**, and any of its successors and assigns, and shall inure to the benefit of and be enforceable by the City, by and through its duly authorized representatives. **DEVELOPER** shall file a copy of this Agreement in the Cumberland County Registry of Deeds, along with a reference to the Book and Page locations of the deeds for the Property. The **DEVELOPER** shall provide to the City the Book and Page number of said recording.

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

12. Except as expressly modified herein, the development, use, and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use Code of the City of Portland and any applicable amendments thereto or replacement thereof.

13. In the event that **DEVELOPER**, or any successor fails to continue to utilize the Property in accordance with this Agreement, or in the event of an uncured breach of any condition(s) set forth in this Agreement, the Planning Board shall have the authority, after hearing and notice to the developer, to resolve the issue resulting in the breach. The resolution may include a recommendation to the City Council that the Agreement be terminated, requiring cessation of the use of the development authorized herein.

WITNESS:

SHERIDAN STREET LLC

By _____

Greg Shinberg

Its: Manager

Cumberland, ss.

State of Maine

Date:

Personally appeared the above-named Greg Shinberg, Manager of Sheridan Street LLC and acknowledged the foregoing Agreement to be his free act and deed in his said capacity and the free act and deed of Sheridan Street LLC.

Notary Public

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