

Order 142-07/08
Given first reading on 2/4/08
Public Hearing and Passage: 2-25-08 9-0

EDWARD J. SUSLOVIC (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
DANIEL S. SKOLNIK (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JAMES I. COHEN (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER AUTHORIZING AMENDMENT TO CITY CODE
SEC. 14-49 (ZONING MAP AMENDMENT)
RE: CONDITIONAL REZONING FOR PROPERTY
IN THE VICINITY OF
READ 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.

**CONDITIONAL ZONE AGREEMENT
J. B. BROWN AND SONS**

AGREEMENT made this ____ day of _____, 2008 by **J. B. BROWN & SONS** a Maine corporation with a principal place of business located at 482 Congress Street, Portland, Maine 04102 (hereinafter sometimes referred to as “**DEVELOPER**”).

W I T N E S S E T H

WHEREAS, DEVELOPER seeks to expand the allowable uses (add two uses) at property located at 215-237 Read Street and 0 Quarry Road, in the City of Portland and identified on the City of Portland on the Assessor’s maps at the following Map, Block and Lot numbers (hereinafter referred to as the “**PROPERTY**”): 150-A-002; 150-A-003; 150-A-005; 150-A-006; 151-A-016; 150-A-008; 151-A-014; 151-A-023; 151-A-014; 151-A-023; 151-A-022; 151-A-024; 151-A-015; and

WHEREAS, the **PROPERTY** contains existing warehousing and distribution facilities between 77,120 and 167,705 square feet with direct access to existing rail infrastructure; and

WHEREAS, the **PROPERTY** is located in the Industrial-Light (“I-L”) zone which does not currently allow self storage facilities as a permitted use, nor does it allow

distribution centers, warehouses or wholesale businesses in excess of 10,000 square feet total building area; and

WHEREAS, the purpose of this conditional rezoning is to allow self storage facilities as defined herein and distribution centers, warehouses or wholesale business facilities (with no outside storage permitted) larger than would otherwise be allowed in the I-L zone; and

WHEREAS, the Planning Board of the City of Portland, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Code §§ 14-60 to 14-62, and after notice and hearing and due deliberation thereon, recommended the rezoning of the **PROPERTY**, subject, however, to certain conditions; and

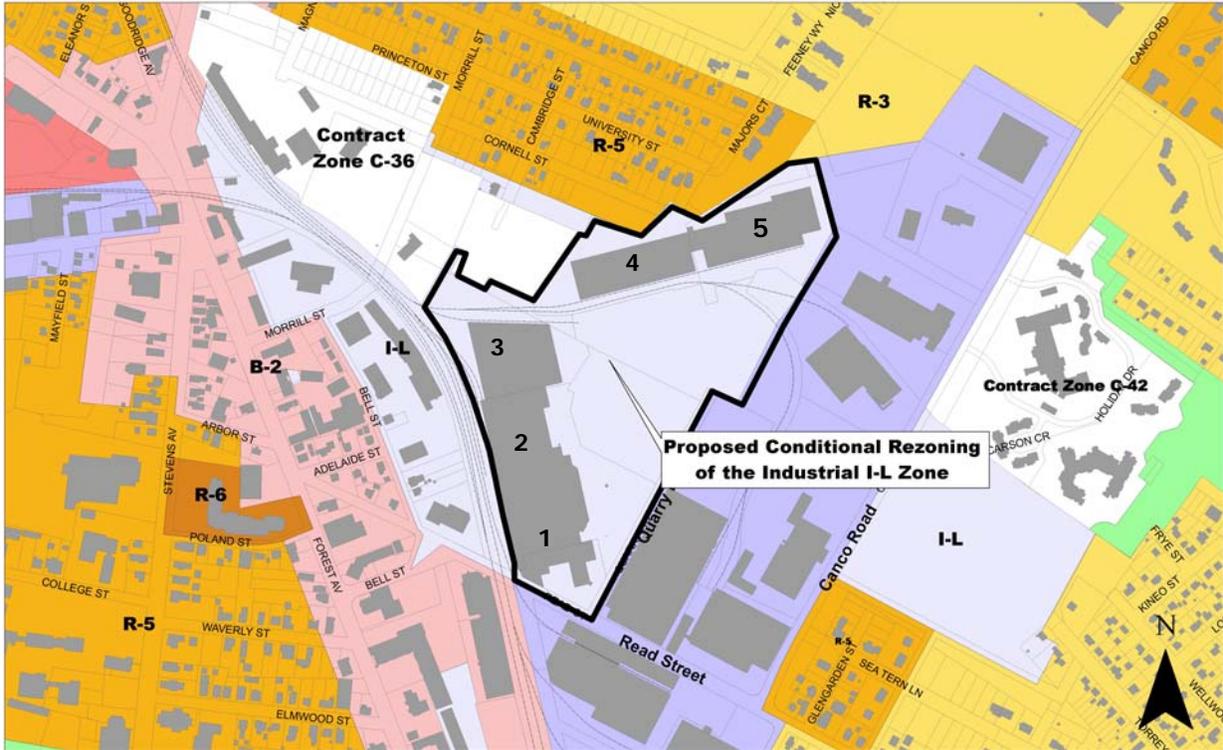
WHEREAS, the **CITY** by and through its City Council has determined that said rezoning would be and is pursuant to and consistent with the **CITY'S** comprehensive land use plan and will establish uses that are consistent with the uses in the original zones and the surrounding areas; and

WHEREAS, the **CITY** has determined that the proposed rezoning will not cause undue adverse environmental impacts, substantial diminution of the value or utility of neighboring structures, or significant hazards to the health or safety of neighboring residents; and

WHEREAS, on _____, 2008, the **CITY** authorized amendment to its Zoning Map based upon the terms and conditions contained within this Agreement, which terms and conditions, run with the land (i.e., the **PROPERTY**) and become part of the **CITY'S** zoning requirements.

NOW, THEREFORE, in consideration of the rezoning, **DEVELOPER**, and its successors and assigns covenants and agrees as follows:

1. Effective thirty days from the affirmative vote of the City Council on rezoning the **PROPERTY**, by Council Order No. ____, the City amends 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 map change amendment for the **PROPERTY** shown herein.



**Proposed Conditional Rezoning of the I-L Industrial Zone to
a Conditional I-L Industrial Zone:
217-239 Read Street, 215 Read Street Rear,
256 Canco Road, 0 Quarry Road and 0 Quarry Road Rear**

January, 2008

2. The **PROPERTY** shall otherwise conform to the zoning requirements of the I-L zone with the exceptions noted herein:
 - a) Self storage facilities located in buildings situated on the **PROPERTY** shall be permitted uses within this zone provided the same receives change of use and site plan approval by the City of Portland. “Self storage facilities” shall mean:

Buildings, or portions thereof, rented or leased as individual storage spaces under a written rental agreement in which the tenant(s) or leaseholder(s) customarily stores and removes personal property on a self-service basis.

b) Distribution centers, warehouses or wholesale businesses in excess of 10,000 square feet total building area, with no outside storage permitted, shall be permitted uses within this zone.

Parking spaces for the above described uses (a and b) shall be one parking space for every 5000 square feet of floor area or as otherwise determined by the Planning Board upon request of the applicant.

3. The **DEVELOPER** shall meet the performance standards of the I-L zone for the operation of all permitted uses on the **PROPERTY** and shall maintain and preserve the existing landscaped buffer between the **PROPERTY** and the adjoining residential zone(s) along the northerly property boundary.
4. Any development along the northerly property line (i.e. buildings labeled 4 and 5 in the above inset shall minimize impact(s) on abutting residential zone(s).
5. The **DEVELOPER** shall provide to the **CITY** a forty foot drainage and protective easement along its northerly property line. The easement shall prohibit **DEVELOPER** from all building, removal of vegetation, (except to the extent of keeping clear the existing means of egress and adjacent walkway) development or expansion within this area. The drainage and protective easement also shall grant permission to the **CITY** to make drainage, stream and/or storm water management improvements within the easement area (including the installation of any pipes, conduits, structures etc.) deemed necessary by the **CITY** for its overall watershed management initiatives.
6. The above stated provisions are an essential part of the rezoning, shall bind and benefit **DEVELOPER**, its successors and assigns and the **PROPERTY** and shall inure to the benefit of and be enforceable by the City, by and through its duly authorized representatives.
7. Within 60 days of the rezoning by the City Council, **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.
8. If any of the provisions 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.

9. 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.

10. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law (including 30-A MRSA 4452) and City Ordinance. Following any determination of a zoning violation by the Court, either the Portland Planning Board on its own initiative, or at the request of the Planning Authority, may make a recommendation to the City Council that the Contract Rezoning be modified or the **PROPERTY** rezoned.

Dated this ___ day of _____, 2008.

J.B.BROWN & SONS

By: Vincent P. Veroneau
Its: President

State of Maine
Cumberland, ss.

Date:

Personally appeared the above-named _____, Vincent P. Veroneau, in his capacity as _____ President of J.B.BROWN & SONS and acknowledged the foregoing Agreement to be his free act and deed in his said capacity and the free act and deed of J.B.BROWN & SONS.

Notary Public