



PLANNING BOARD REPORT PORTLAND, MAINE

Change of Use from Grocery Store to Restaurant
255 Diamond Avenue
Administrative Authorization and Change of Use Applications
2018-022
Alexandra Wight, Applicant

Submitted to: Portland Planning Board: Public Hearing Date: February 27, 2018	Prepared by: Shukria Wiar, Planner Date: February 22, 2018
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I. INTRODUCTION

Alexandra Wight and Gail Landry has submitted an administration authorization and a change of use applications for their property at 255 Diamond Avenue on Great Diamond Island. The applicant wants to change the use of the building from a general store to a 35-seat restaurant and smaller-scaled general store. The building is part of the Diamond Cove Association site and is located in the Island Residential IR-3 zone. All change of use applications in this zone requires a Planning Board review and approval.

A total of seventy-nine (79) notices were sent to property owners within 500 feet of the site and interested party list. A legal ad ran on February 19th and 20st, 2018 of the Portland Press Herald. Public comments received by the Planning Office are compiled and included as Public Comment in the packet.



Figure 1 – Aerial of Proposed Site

Applicant Name	Alexandra Wight and Gail Landry
Consultants	
Agent Representative	Steven Blais, Blais Civil Engineers
Engineer	Steven Blais, Blais Civil Engineers

II. PROJECT DATA

Existing Zoning	Island Residential IR-3
Existing Use	General Store
Proposed Use	General Store and Restaurant
Parcel Size	125 acres (Diamond Cove Association)
Building Size	1,580 SF
Number of Units to be Demolished	None
Building Footprint	1,580 SF
Building Floor Area	1,580 SF
Impervious Surface Area	1,580 SF
Estimated Cost of Project	\$340,000

III. PROPOSED PROJECT DESCRIPTION

This structure has been used as a general store, spa, marina facilities, and apartment by past owners (the apartment never received permits for that use). The City’s records for this property specify the current approved use as a general store (retail), and not a restaurant. The definition of retail in the zoning ordinance allows up to nine seats or fewer seats:

Retail establishment: Means (1) any food service establishment as defined by section 11-16 of this Code, with indoor seating capacity for nine (9) or fewer patrons; or (2) any shop or store offering goods or merchandise to the general public for direct consumption and not for resale, but does not include temporary freestanding stands in either case; however, retail establishments combined with gasoline, diesel or propane fuel sales shall be considered a single use for zoning purposes and shall constitute a major or minor auto service station.



Figure 2 – Existing Building

The proposed renovation will host 35 seats thus creating a new restaurant use per the City’s definition:

Restaurant: Any food service establishment, as defined by section 11-16 of this Code, with indoor seating capacity for ten (10) or more patrons.

The site plan application includes interior rehabilitation modifications to the existing building without expanding the existing building footprint. The development will also change the use from a general store to a restaurant.

IV. DEVELOPMENT REVIEW

The proposed development has been reviewed by staff for conformance with the IR-3 zoning regulations and review standards of the site plan ordinance. Restaurants are listed as a permitted use in the IR-3 zone. All changes of use must meet the development review standards listed in the zone. The applicant’s responses to the standards of the Section 14-145.16 is included as Attachment A.

A. ZONING

The project site is located in an Island Residential IR-3 zoning district. The site plan has been reviewed for compliance with Section 14-145.16. Development Review that states “*In addition to other applicable requirements, no development shall occur nor shall any new use be established unless the Planning Board finds that the final development plan for the site is in compliance with the following development standards*”:

- (a) *Transportation: The development shall be designed primarily with a pedestrian orientation to minimize the use of and dependency on private motor vehicles. Appropriate areas on the site shall be designated, as necessary, for parking of common service vehicles, golf carts or bicycles to serve the transportation needs of residents and visitors. The internal circulation plan shall also be coordinated with the existing island street network to ensure adequate access for emergency and service vehicles. A project construction plan shall be developed indicating the anticipated number and types of vehicles such as construction equipment, supply-delivery and service vehicles needed for undertaking the construction of the project. Documentation shall be provided as to the proposed transportation route such as roads, piers, beaches, sand bars and the impact of construction related activities on the routes. The development shall not have a substantial adverse impact on the capacity of existing island docking facilities. The developer shall demonstrate that an adequate water transportation system, including docking facilities, exists or will be provided.*

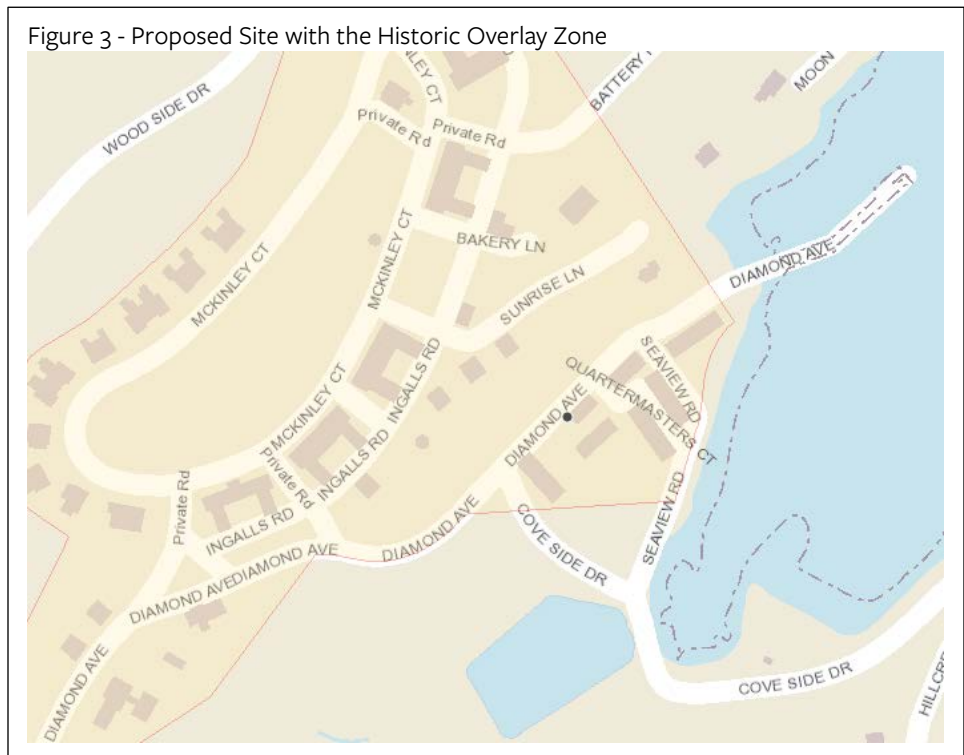


Figure 3 - Proposed Site with the Historic Overlay Zone

Staff Comment: The building is situated within the Fort McKinley complex, which is a designated Historic District. The building is located on Diamond Avenue (existing roadway) and is part of the Diamond Cove Association. Pedestrian and vehicle access is over Diamond Avenue and over the existing roads and pathways within the development. According to the applicant’s cover letter, it states “traditionally, customers have traveled to the Site by foot either from the Casco Bay Ferry Line or around the island. The small increase of use will not have a significant impact on vehicular or pedestrian

circulation”.

Food and beverage deliveries will continue to come in via Casco Bay Ferry Lines’ freight 2-3 times per week.

According to the applicant’ cover letter regarding project construction plan, it states “[t]here will be no substantial impact on the existing island transportation or docking facilities as deliveries (as was with

the past general store) will be delivered via the existing Casco Bay Ferry service. Any additional temporary dock space needed for either customers or deliveries will be arranged with the Diamond Cove Marina per their standard operating procedures". A detailed outline of the construction plan is Attachment Plan 6.

Currently there are no parking spaces or bicycle parking spaces on site. The Planning staff is recommending a condition of approval requiring the applicant to install bicycle racks.

- (b) *Solid waste: Adequate provision for off-island solid waste disposal shall be demonstrated such that the impact on municipal solid waste disposal is minimized. A development shall incorporate methods such as the following to reduce the amount of solid waste generated by the project: compaction and reduction in waste volume, recycling, incineration or baler system, and private collection and transfer to an off-island location. It shall be demonstrated that there will be no significant environmental impacts from the solid waste disposal system.*

Staff Comment: The restaurant will only be utilizing disposable tableware at the restaurant. According to the owner, there will use an intense recycling program at the restaurant. Tableware will be up to 95% compostable and composting will be available either through the ferry service, private service, or a composting site on the island. It is estimated that the general store and restaurant will generate about 28 to 32 large trash bags per week, which is an increase of approximately 33% per week based on the past general store use. The applicant has submitted a letter (Attachment I) from the island's transfer station confirming that there is adequate capacity for the additional increase.

- (c) *Sanitary waste: All sanitary waste from the development shall be disposed of by a public sewer, private community sewer system providing at least secondary treatment, or subsurface sewerage system, in compliance with federal, state and local regulations. The developer shall demonstrate that the project will comply with all applicable federal, state and local water quality and groundwater standards.*

Staff Comment: According to Wastewater Discharge Licensing of Department of Environmental Protection, the site has a license for a general store, deli, three employees and fourteen seats. The applicant has submitted an email (Attachment D and E) from Irene Samur stating that if the design flows are under 370 GPD, then there is no need for a license modification to the overboard discharge license. The email states ten employees will be working during the day but this has been reduced to eight employees since this email was written.

The applicant is proposing a total of 35 seats for the restaurant, with a maximum of 8 employees at any one time. Seats will only be located inside. The sanitary waste design flows are as follows:

8 employees at 12 gpd = 96 gpd
35 guest seats at 7 gpd = 245 gpd
Total: 341 gpd

The Department of Public Works confirmed since the applicant is not connecting to a city sewer system, so this is not part of Portland's Fats Oils and Grease (FOG) program. The applicant submitted e-mail correspondence (Att M, Applicant's submittal) regarding the existing grease trap and committing to a new grease trap in order to comply with regulations. Ben Pearson, Water Resources Division of DPW, recommends that a plumber should measure out and prepare the calculations to determine the appropriate size for a grease interceptor. This is included as a condition of approval.

(d) *Water: The proposed development shall have sufficient water for the reasonably foreseeable needs of the development and shall not cause an unreasonable burden on existing water supply nor adversely affect groundwater resources. Unless the development is to be served entirely by public water and secondary treatment sewer systems, the determination of compliance with this provision shall be based upon one (1) or more comprehensive groundwater analyses and reports prepared by qualified professionals and including assessment of current groundwater aquifer conditions, the impact of the proposed development on the groundwater aquifer, and recommendations for mitigation of potential impacts caused by the development.*

Staff Comment: The applicant has submitted a letter from Portland Water District (Attachment K) confirming that they can serve the proposed project with conditions of service:

- The District can confirm that the supply of domestic water to the Diamond Cove Association, at the point which the Diamond Cove Association is connected to the public system, will be adequate to support the additional use from the proposed restaurant. The District does not have the authority to approve the connection to privately owned infrastructure. Since this will be a private connection, an application and deposit will not be required. However, the development team must contact PWD during construction so that we can verify that proper cross connection containment measures have been taken.
- The existing meter for the Diamond Cove Association is a 6-inch fire service meter with a maximum peak flow of 3,100 gallons per minute. It is the responsibility of the developer to determine that the existing meter has the capacity to support the additional use from the proposed restaurant. Please let us know if a meter upgrade is required to accommodate the additional flow. Since there is one master meter for the entire association, individual billing from the District is not available.

(e) *Shoreland areas: The development shall preserve the natural features of the shoreland area by minimizing the disturbance of existing vegetation and slopes, avoiding development in areas subject to erosion and sedimentation, and conserving scenic views and vistas to and from the site.*

Staff Comment: The change of use is all internal to the existing historic structure and no shoreland areas will be disturbed as part of this project.

(f) *Environmentally sensitive areas: The development plan shall preserve significant resources of the site by integrating open space into the development plan and by conserving such features as scenic vistas, historic man-made or natural features, existing vegetation, wetland areas, shoreland areas, ground water, natural wildlife habitat, and recommended or registered State of Maine Critical Land Areas, as well as other environmentally sensitive areas.*

Staff Comment: The change of use is all internal to an existing historic structure and no environmentally sensitive areas will be disturbed as part of this project.

(g) *Recreation and open space: All open spaces on the site shall be functionally integrated into the development plan by virtue of such features as passive and active recreational opportunities, accessibility to residents, preservation of natural site amenities and resources, orientation to achieve energy conservation*

or solar access, use as a buffer between housing clusters and to screen the development from surrounding areas.

Staff Comment: Since the change of use is all internal to an existing historic structure, no changes will be made to any existing recreation or open space.

- (h) *Financial and technical capability: The applicant shall demonstrate sufficient financial and technical capability for undertaking the proposed project. Financial capability shall include a cost estimate of the proposed improvements, proposed construction and permanent financing, and terms of sale or lease of dwellings and commercial space. Technical capacity shall include the experience and expertise of the developer in implementing projects of similar scope.*

Staff Comment: The applicant has submitted a letter from Atlantic Trust, dated January 24, 2018, as demonstration of their financial capacity to complete the proposed development. Attachments G and H outlined the owners and their consultant qualification and meets the technical capacity standard.

- (i) *Environmental impact analysis: The applicant shall develop an environmental impact analysis including an inventory of existing environmental conditions at the project site and in the surrounding area with an assessment of the development's probable impact upon the environment. The inventory shall include such resources as air, water quality, water supply, surface water and shoreline, geology, soils, topography, wildlife, botanical and aquatic, including rare and endangered species, historic, archeological and aesthetic. The analysis shall include the direct and cumulative adverse impacts of the project on these resources. The analysis shall also include what steps the applicant proposes to take to identify and minimize adverse environmental impacts during construction, management and use of the property and whether there are alternatives for the project which would decrease the impact of the development.*

Staff Comment: The project will disturb a small amount of land to replace the sanitary sewer connection at the main. This project will have no significant impact on the environment.

- (j) *Development phasing: If the project is to be completed in phases, the applicant shall indicate the schedule for completing and implementing infrastructure improvements as well as other improvements, agreements or services required for compliance with the development standards of this section, planned unit development standards, and site plan and subdivision review requirements.*

Staff Comment: Not Applicable

- (k) *Emergency services: The development shall not place an unreasonable burden on the ability of the city to provide police, fire and other emergency services.*

Staff Comment: The proposed change of use will not place any unreasonable burden on the ability of the City to provide police, fire and other emergency services.

B. SITE PLAN

The proposed site plan has been reviewed by staff for conformance with the applicable review criteria under Section 14-523 (c) Standards, which states:

Administrative Authorization. Administrative Authorization means the Planning Authority may grant

administrative authorization to exempt a development proposal from complete or partial site plan review that meets the standards below, as demonstrated by the applicant.

Below are the site plan criteria for an administrative authorization and the assessment of compliance with the criteria:

CRITERIA FOR AN ADMINISTRATIVE AUTHORIZATION		Applicant's Assessment		
		Y (yes)	N (no)	N/A
a)	Is the proposal within the existing structure?	x		
b)	Are there any new buildings, additions, or demolitions?		x	
c)	Is the footprint increase less than 500 sq. ft.?			x
d)	Are there any new curb cuts, driveways or parking areas?		x	
e)	Are the curbs and sidewalks in sound condition?	x		
f)	Do the curbs and sidewalks comply with ADA?			x
g)	Is there any additional parking?		x	
h)	Is there an increase in traffic?		x	
i)	Are there any known stormwater problems?		x	
j)	Does sufficient property screening exist?			x
k)	Are there adequate utilities?	x ¹		
l)	Are there any zoning violations?	x ²		
m)	Is an emergency generator located to minimize noise?			x
n)	Are there any noise, vibration, glare, fumes or other impacts?		x	

¹ Refer to Paragraph IV (A) a, b, c above for DEP, PWD and solid waste.

² The residential unit was never permitted by previous owner and the proposed plan eliminates the unit.

V. STAFF RECOMMENDATIONS

The Planning Division recommends approval of site plans with the recommended conditions of approval listed under the proposed Planning Board motion.

VI. PLANNING BOARD MOTIONS

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the Planning Board Report for application 2018-022 relevant to the site plan regulations; and the testimony presented at the planning board hearing, the Planning Board finds that the plan **[is or is not]** in conformance with the site plan standards of the land use code, subject to the following conditions of approval that must be met prior to the issuance of a building permit, unless otherwise stated:

1. The applicant shall comply with the Maine DEP overboard discharge license as presented in the applicant.
2. The applicant shall comply with the proposed composting measures, as outlined in Steve Blais's email dated 02.16.2018, in order be consistent with the solid waste development review criteria.
3. The applicant shall install two bicycle racks at the main entrances of the building prior to the issuance of a certificate of occupancy.

4. The applicant shall comply with all conditions of the Portland Water District review and evidence of compliance shall be submitted prior to the issuance of a certificate of occupancy.
5. The applicant shall submit for review by the Department of Public Works (DPW), documentation from a plumber that measures and prepares the calculations to determine the appropriate size for a grease interceptor. The appropriately sized grease trap shall be installed prior to the issuance of a certificate of occupancy.

VII. ATTACHMENTS

PUBLIC COMMENTS

- PC1 - Donna Schwartz 2-16-18
- PC2 - Karina Kelley 2-21-18
- PC3 - Lex Mathews 2-21-18
- PC4 - Oliver Pennington 2-21-18
- PC5 - Beth Mackay 2-21-18
- PC6 - The Barn on Walnut Hill
- PC7 - Flanagan Farm
- PC8 - Donna Schwartz 2-22-18
- PC9 - Ken Wood 2-21-18
- PC10 - Bruce Robinson 2-22-18
- PC11 - Paul Woody 2-22-18
- PC12 - Dion Johnson and Kim Diffendal 2-22-18
- PC13 - Kevin and Tricia Cooper 2-22-18
- PC14 - Stephen and Beth Sanders 2-23-18
- PC15 - Kathy Willing 2-23-18
- PC16 - Ron Ward 2-23-18
- PC17 - Brian Willing 2-23-18
- PC18 - Richard Molyneux 2-23-18
- PC19 - Downey Shea 2-23-18
- PC20 - Bobby spark 2-23-18

APPLICANT'S SUBMITTAL

- A. 180130-Cover Letter
- B. Administrative Authorization App
- C. Property Deed
- D. MDEP Email- No Amendment
- E. MDEP Email- Sewer Design Flows
- F. Financial Capacity Letter
- G. Alex- Qualifications
- H. Steve Blais- Qualifications
- I. Island Association- Solid Waste
- J. Emails from PWD
- K. PWD Ability to Serve
- L. Email from Steve Blais, dated 02.16.2018
- M. Email from A. Wight, Grease Trap dated 02.22.2018
- N. Email from A. Wight, Communication dated 02.23.2018
- O. Email from A. Wight - kitchen Plans reviewed by Eric Cobb, Health Inspector

PLANS

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|--------|-----------------------------|
| Plan 1 | Existing Floor Plan - EX1.0 |
| Plan 2 | Demo Plan |
| Plan 3 | Proposed floor plan A1.1 |
| Plan 4 | Proposed floor plan - G1.1 |
| Plan 5 | Proposed elevations - I1.1 |
| Plan 6 | Construction Schedule |
| Plan 7 | Site Photograph |
| Plan 8 | 1989 Original Plan |
| Plan 9 | 1999 2nd Revision |