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July 31, 2013

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AUG 05 2013

City of South Portland
Planning & Development

Charles "Tex" Haeuser, Planning & Development Director
City of South Portland
496 Ocean Street
South Portland, ME 04106

Dear Tex:

This letter describes an error in your staff presentation of July 23 regarding the Waterfront Protection Ordinance and requests that you correct the public record before the Board begins its deliberations. Your slide and your oral presentation transposed the provisions applicable to the Marine Industrial Area with those applicable to the Shipyard Development District in the Comprehensive Plan Land Use section, and your remarks were in error. The error is significant because it affects Comprehensive Plan consistency, as described in more detail below.

For convenience, I am enclosing a "screen snap" of your presentation taken from the tape of your remarks, accompanied by 3 pages from the actual comprehensive plan. If you review the screen snap, and the tape of your statements at 37:06-39:44, you will see that you incorrectly quoted the Comprehensive Plan and stated that oil facilities can expand in the area of the Portland Pipeline Pier. You may also want to compare the content of your slide labeled area #2, Marine Industrial District, and area #3, Shipyard Development District, with the correct wording of the Comprehensive Plan, pages 6-24, 6-20 and 6-21, enclosed.

As I pointed out to you in your office on July 11, the Comprehensive Plan does not allow oil facilities to expand on the Portland Pipeline terminals 1 & 2 and the Gulf-Cumberland Terminal. The comprehensive plan views these industrial uses as transitional uses where "in the short term, the City's marine terminals and related marine industrial area are maintained and improved while minimizing their impact on adjacent residential areas." The Waterfront Protection Ordinance ("WPO") is consistent with the Comprehensive Plan, both the Community Vision and Land Use sections. The initiative ordinance will allow the existing and historical petroleum uses to continue – unloading petroleum products from ships – but petroleum businesses could not commence other petroleum uses or build other petroleum facilities. Your presentation made it appear that the WPO is inconsistent by quoting inapplicable language from the Comprehensive Plan.

In addition, your comments were not accurate with regard to the Shipyard Development District, the area that includes the parcel on the corner of Preble and Broadway, owned by Portland Pipeline, where one sentence in the Comprehensive Plan would allow oil

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facilities to expand. On this parcel, the Comprehensive Plan in combination with other provisions of the City's existing zoning ordinance, particularly Section 27-1517, the Storage Tank ordinance, would allow "oil facilities to upgrade or expand" because there are two existing PPL storage tanks on a contiguous parcel owned by PPL. This sentence of the Comprehensive Plan is internally inconsistent with the Community Vision and other parts of the Plan. Expanded oil facilities on this property would significantly devalue the public and private investment our community has made in the Eastern Waterfront and is not appropriate under the Comprehensive Plan taken as a whole. In contrast, the WPO does not allow enlargement or expansion of existing petroleum storage tank farms in this area.

Thanking you in advance for correcting this error.

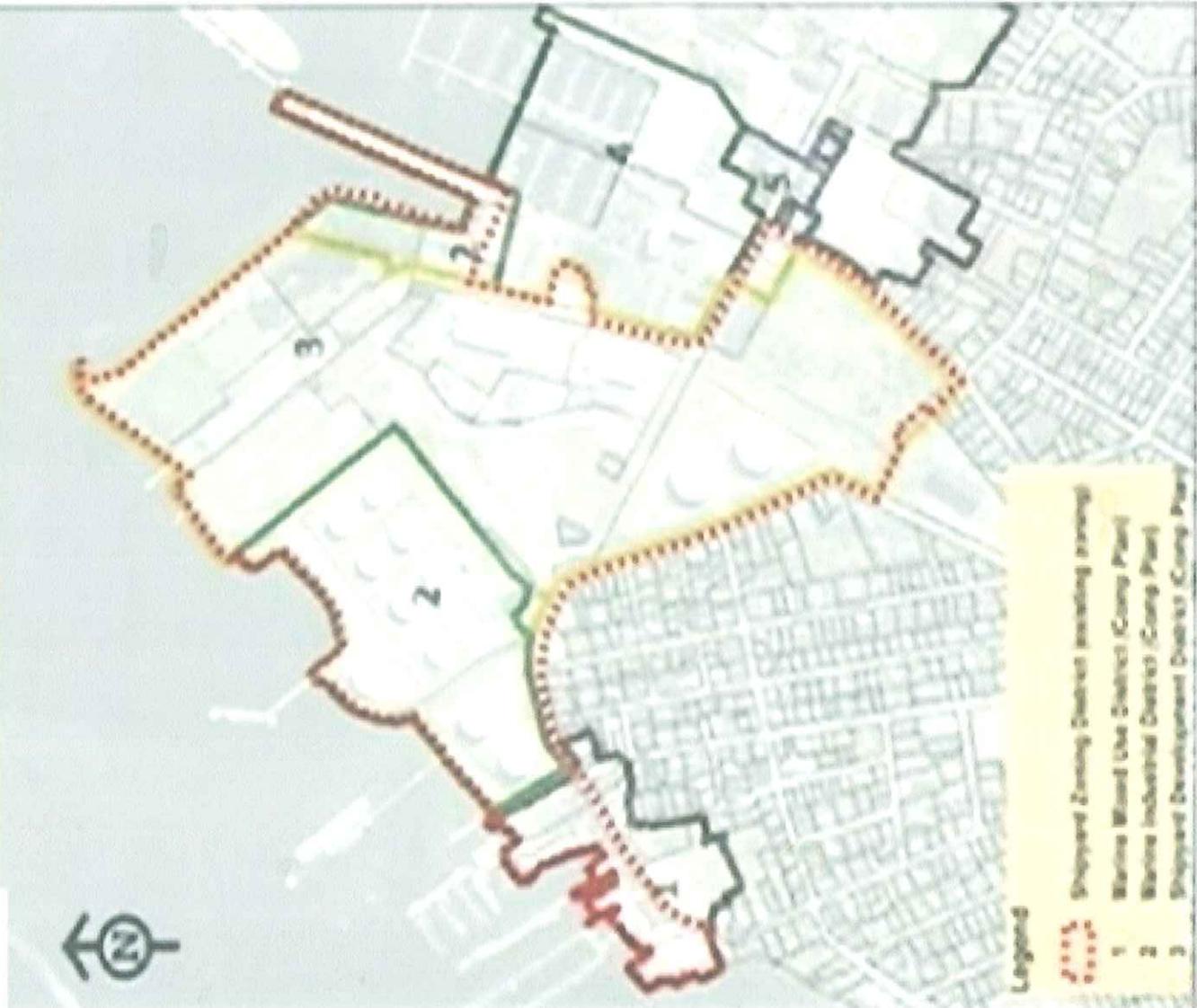
Sincerely,


Natalie West

cc.

✓ Molly Butler Baker, Esq., Chair South Portland Planning Board
Sally Daggett, Esq., Corporation Counsel, Jensen, Baird, Gardner & Henry

Relationship of the Existing Shipyard Zone to the Comprehensive Plan's Eastern Waterfront Land Use Designations



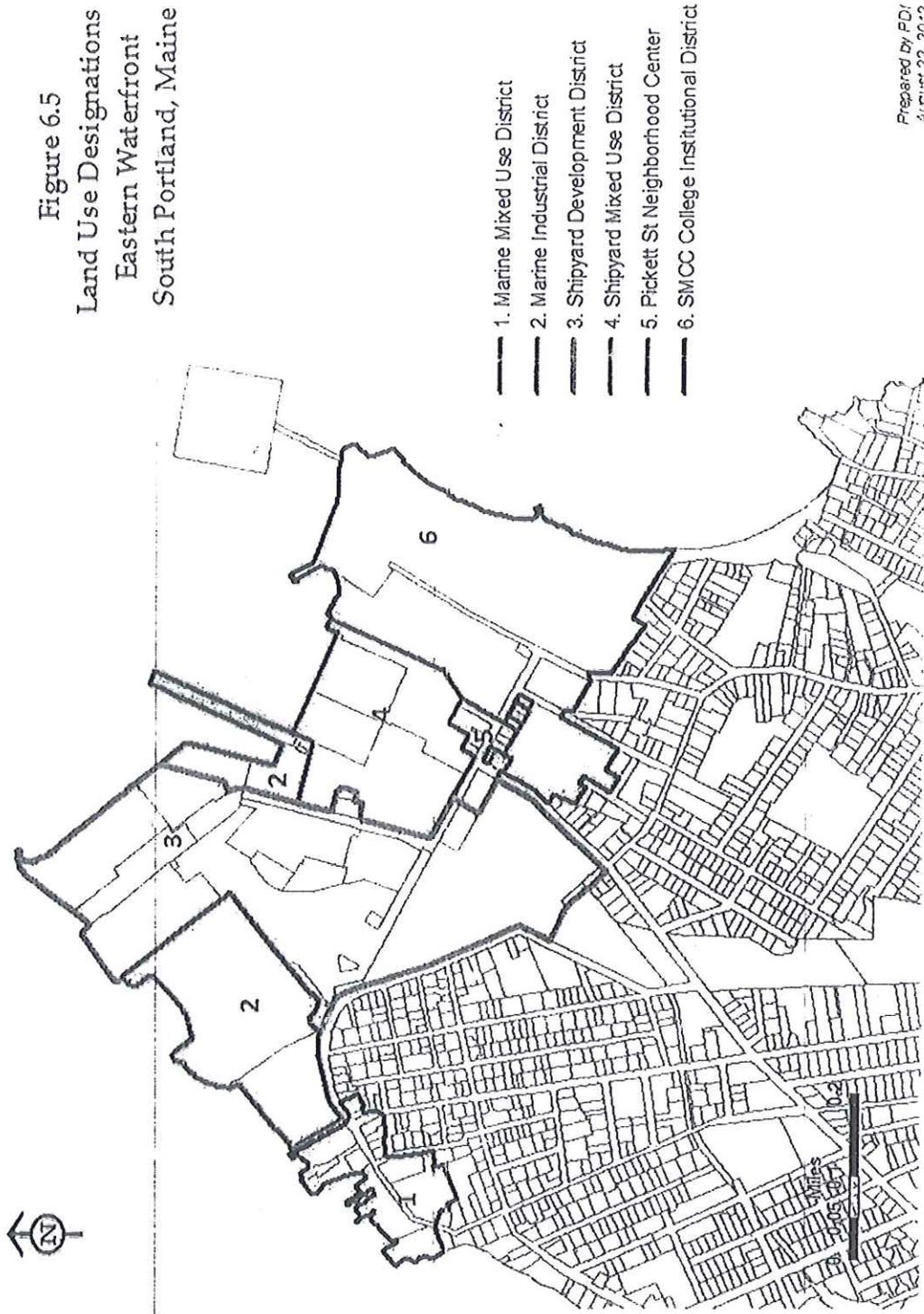
#1: ... The waterfront continues to be used primarily for low/moderate intensity marine related and water-enhanced uses that are reasonably small in scale. ... (p. 6-20)

#2: ... The City's basic policy is to encourage good quality development in this area. ... Within this area, the City's development regulations should continue to allow existing marine and oil facilities to upgrade or expand on parcels that are already used for this purpose. (p. 6-20)

#3: ... In the short term, the City's marine terminals and related marine industrial areas are maintained and improved while minimizing their impact on adjacent residential neighborhoods. A variety of marine and marine-related uses are allowed. In the longer term, if demand for these facilities declines or the type of activity needs to change and the owners of these facilities desire to explore other uses for these facilities, the City, in conjunction with the owners, should reevaluate the best use of these waterfront sites. (p. 6-21)

South Portland Comprehensive Plan

Figure 6.5
Land Use Designations
Eastern Waterfront
South Portland, Maine



This street bisects established residential neighborhoods and carries heavy volumes of traffic, making its ability to accommodate more traffic problematic.

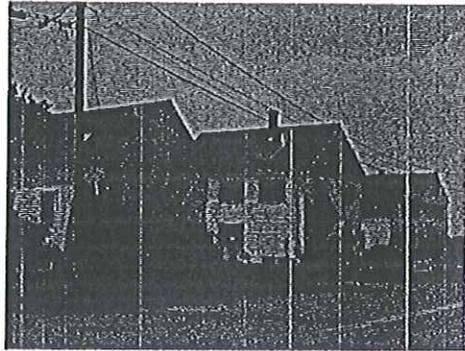
A. Broad Vision

The Eastern Waterfront continues to evolve to become a marine, mixed-use area that capitalizes on the access to the waterfront and spectacular views of the harbor and inner Casco Bay. Southern Maine Community College continues to improve its campus primarily within its existing borders. The traditional marine uses including the oil terminals, repair facilities, and marinas remain key elements of the waterfront. At the same time, the area along Front Street in Ferry Village and the underutilized former industrial properties are redeveloped into mixed-use areas that attract people to live and work in the area and to enjoy the waterfront.

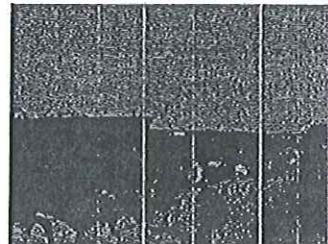
B. Land Use

The Eastern Waterfront consists of a number of subareas (see Figure 6.5) that need to be treated differently from a land use perspective. These include:

- *Ferry Village Marine Mixed-Use Area* – This area includes the Front Street waterfront in Ferry Village. The area evolves into a water-related mixed use area that both serves the Ferry Village neighborhood and attracts visitors to this portion of the waterfront. The waterfront continues to be used primarily for low/moderate intensity marine related and water-enhanced uses that are reasonably small in scale. Non-marine uses are allowed to develop over time as part of mixed-use redevelopment or reuse especially in areas away from the waterfront. Moderately high-density residential uses (up to 12-18 units per acre) are allowed on the upper floors of mixed use buildings except along the immediate waterfront. Development/redevelopment maintains or provides both visual and actual access to the shoreline.

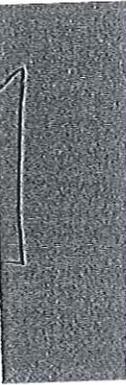
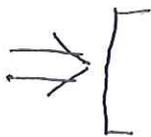
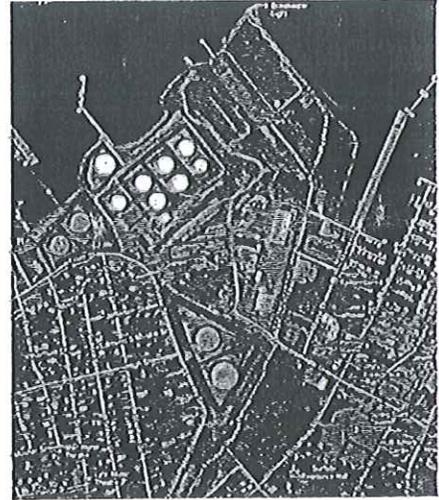


- *Marine Industrial Areas* – This includes the Gulf-Cumberland terminal and Portland Pipe Line terminals 1 and 2 including the developed tanks. In the short term, the City's marine terminals and related marine industrial areas are maintained and improved while minimizing their impact on adjacent residential



neighborhoods. A variety of marine and marine-related uses are allowed. In the longer term, if demand for these facilities declines or the type of activity needs to change and the owners of these facilities desire to explore other uses for these facilities, the City, in conjunction with the owners, should reevaluate the best use of these waterfront sites (see additional discussion in the Working Waterfront section).

- *Shipyards Development District* – This area includes the large vacant or underutilized properties on or near the waterfront including the Cacoulidis property and the vacant portion of the Portland Pipe Line property at the corner of Broadway and Pickett Street as well as the other lots on the west/north side of Madison Avenue. This area of the City has significant potential to expand the City’s tax base and create broad economic benefits for the community at large. The City’s basic policy is to encourage good quality development in this area. To accomplish this objective, the City should actively work with property owners and/or potential developers to explore the possible development/redevelopment of these parcels. If necessary, the City should be a partner in any development to assure that the basic infrastructure needed to support a good quality development proposal is available. The City’s broad vision is that this area is developed/redeveloped in a way that expands the City’s property tax base and creates economic benefits for the entire community while being compatible with the surrounding neighborhood. Within this area, the City’s development regulations should continue to allow existing marine and oil facilities to upgrade or expand on parcels that are already used for this purpose. The regulations also should encourage creative development/redevelopment of the vacant or underutilized land within this district by establishing flexible, performance-based standards that allow a wide range of potential uses. This could include the use of “conditional zoning” or the creation of a special development district tailored to a specific development proposal. Any development that is well designed and meets that following criteria could be allowed in this development district:



- All waterfront areas are either utilized for marine-related uses or provide access to and along the shoreline.