

# CITY OF PORTLAND, MAINE

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## PLANNING BOARD

Elizabeth Boepple, Chair  
Sean Dundon, Vice Chair  
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Brandon Mazer  
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October 11, 2017

218-220 Washington Avenue LLC  
199 Elderberry Road  
South Portland, ME 04106

Sebago Technics fao Will Conway  
75 John Roberts Road  
South Portland, ME 04106

Project Name: Forty-five unit residential Condominium Building  
Project ID: Project #2016-280 (Subdivision & Site Plan)  
Project #2016-281 (Conditional Use Inclusionary Zoning)  
Address: 218 Washington Avenue CBL: 010 A015001  
Applicant: 218-220 Washington Avenue LLC  
Planner: Jean Fraser

Dear Sirs:

On October 10, 2017 the Planning Board considered the proposal for a four story building comprising 45 condominium dwelling units at 218 Washington Avenue. The Planning Board reviewed the proposal for conformance with the standards of the Inclusionary Zoning, Subdivision and Site Plan Ordinances, as well as the B-1b Neighborhood Business Zone Standards. The Planning Board voted unanimously 5-0 (Boepple absent; Morrissette recused) to approve the application with the following waiver and conditions as presented below.

### **A. WAIVER**

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 the public hearing on October 10, 2017 for application 2016-280 (218 Washington Avenue) relevant to Portland's technical and design standards and other regulations; and the testimony presented at the Planning Board hearing:

The Planning Board voted unanimously (5-0, Boepple absent; Morrissette recused) that it finds, based upon the consulting traffic engineer's review ([Attachment 2](#)), that extraordinary conditions exist or undue hardship may result from strict compliance with the Technical Manual Section 1.7.2.7 *Location and spacing of driveways*. The Planning Board waives the *Technical Manual* standard (Technical Manual Section 1.7.2.7) to allow the driveway serving the new development to be located as shown in the Site Plans in [Plan P5](#) and as described in [Attachment F](#).

### **B. INCLUSIONARY ZONING – CONDITIONAL USE**

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 the public hearing on October 10, 2017 for application 2016-281 (218 Washington Avenue) relevant to the Conditional Use as authorized by Division 30, Section 14-487 Ensuring Workforce Housing; and the testimony presented at the Planning Board hearing:

The Planning Board voted unanimously (5-0 Boepple absent; Morrissette recused) that it finds that the Conditional Use is in conformance with the standards of the land use code and approves the application, subject to the following condition of approval:

- i. That the Applicant shall pay a fee of \$461,250 into the City's Housing Trust Fund prior to the issuance of a Certificate of Occupancy.

### **C. SUBDIVISION**

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 the public hearing on October 10, 2017 for application 2016-280 (218 Washington Avenue) relevant to the subdivision regulations; and the testimony presented at the Planning Board hearing:

The Planning Board voted unanimously (5-0 Boepple absent; Morrissette recused) that it finds that the plan is in conformance with the subdivision standards of the land use code and approves the application, subject to the following conditions of approval, which must be met prior to the signing of the plat unless stated otherwise:

- i. The applicant shall submit a final subdivision plat for review and approval by Corporation Counsel, the Department of Public Works, and the Planning Authority; and
- ii. That the applicant shall develop and submit, for review and approval by the City Arborist prior to signature of the plat, a plan for the ongoing and future control of the invasive species that are along the site boundary and likely to spread within the site if not controlled. The invasive species found at the site include "Multi-flora Rose" and "Japanese Knotweed", both of which are on the State of Maine Invasive Plant List and subject of recent State legislation to control. This plan, once approved, shall be referenced on the subdivision plat and in the condominium documents; and
- iii. The subdivision plat and Condominium Association documents shall include reference to the plan for the control of invasive species and clarify responsibilities for the future control of invasive species, use and appearance of the rooftop decks, snow storage, and maintenance of landscaping and sylvia cells in the ROW; and
- iv. The Condominium Association documents shall be finalized to the satisfaction of the Associate Corporation Counsel and Planning Authority; and
- v. The applicant shall obtain licenses for the planted areas that encroach into the City's ROW prior to the issuance of a building permit; and
- vi. That this decision represents a finding by the Planning Board that the application satisfies the requirements of the City Code. It is approved on the basis of the information provided by the applicant in the record regarding his/her ownership of the property. The applicant has the burden of ensuring that he/she has a legal right to use the property. This approval in no way relieves the applicant of this burden. Nor does this approval constitute a resolution in favor of the applicant on any issues regarding property boundaries, easement rights, ownership or other similar title issues. The applicant is advised to resolve such disputes before expending money in reliance on this approval.

### **D. SITE PLAN**

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board report for the public hearing on October 10, 2017 for application 2016-280 (218 Washington Avenue) relevant to the Site Plan Ordinance and other regulations and the testimony presented at the Planning Board hearing:

The Planning Board voted unanimously (5-0 Boepple absent; Morrissette recused) that it finds that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions:

- i. That the applicant shall submit, for review and approval by the Department of Public Works and the Planning Authority prior to the issuance of a building permit, a revised Utility Plan and Stormwater Management Plan that clarifies the way the stormwater from the development site will be managed in Anderson Street. The applicant has been advised during the review that the existing storm drain in Anderson Street does not have capacity to accept additional flows from the proposed project and that Anderson Street is a moratorium street with a recently installed gas main that will constrain the

stormwater connections. The applicant shall be responsible for all work in Anderson Street required to provide an acceptable stormwater discharge system and for all associated moratorium street fees; and

- ii. That the applicant and all assigns shall comply with the conditions of Chapter 32 stormwater including Article III, post-construction storm water management, which specifies the annual inspections and reporting requirements. The developer/contractor/subcontractor must comply with conditions of the submitted construction stormwater management plan and sediment and erosion control plan prepared by Sebago Technics and dated June 2017 based on City standards and State guidelines. A Maintenance Agreement for the stormwater drainage system shall be approved by Corporation Counsel and the Department of Public Works, and submitted, signed and recorded prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Works; and
- iii. That the Construction Management Plan shall be revised for review and approval by the Department of Public Works and the Planning Authority prior to the issuance of a building permit, to address the comments from the Traffic Engineer dated 10.5.2017, the Peer Engineer comments dated 10.6.2017, and the Transportation Program Manager comments dated 10.6.2017; and
- iv. That the following plans shall be revised and submitted for review and approval by the Planning Authority prior to the issuance of a building permit:
  - a. Site Plan (Plan P5) to revise the parking space layout to show 45 parking spaces (or the applicant may submit proposals for meeting the B1b zone requirements in other ways as allowed in the land use ordinance, also for review and approval prior to the issuance of a building permit);
  - b. Detail Plans sheet 10 (Plan 8) and Landscaping Plan sheet 8 (Plan 9) to address the comments of the Transportation Program Manager dated 10.6.2017 and to show that the Street Lamps are Bayside medium in black and part of the projects cost and construction;
  - c. Landscaping Plan (Plan 9) to address the planting comments of the City Arborist dated 6.28.2017.
- v. That the lighting plan shall be revised for review and approval by the Planning Authority prior to the issuance of a building permit, to show adequate lighting in the vicinity of the parking garage entrance/door; and
- vi. That a plan showing the location and screening of all HVAC and other mechanical equipment on the roof shall be submitted for review and approval by the Planning Authority prior to ordering of the equipment; and
- vii. That the applicant has demonstrated that site constraints prevent the planting of all of the 45 required street trees (one per unit for multi-family development) in the right-of-way, and therefore the applicant shall contribute \$14,400 for 36 street trees to Portland's tree fund. This figure will be reduced by the cost of the nine sylvia cells, subject to the applicant submitting evidence of the costs to the Planning Authority and City Arborist; and
- viii. That the building design shall be revised to address the Planning Board comments and reviewed and approved by the Planning Authority.

The approval is based on the submitted plans and the findings related to Inclusionary Zoning, Subdivision and Site Plan review standards as contained in Planning Report for applications #2016-280 and #2016-281 which is attached.

#### **STANDARD CONDITIONS OF APPROVAL**

Please Note: The following standard conditions of approval and requirements apply to all approved site plans:

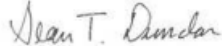
1. **Subdivision Recording Plat** A revised recording plat, listing all conditions of subdivision approval, must be submitted to the Planning and Urban Development Department for review. Once approved, the plat shall be signed by the Planning Board prior to the issuance of a performance guarantee. The performance guarantee must be issued, prior to the release of the recording plat, for recording at the Cumberland County Registry of Deeds.

2. **Subdivision Waivers** Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice. The plan or notice must be recorded in the Cumberland County Registry of Deeds within 90 days of the final subdivision approval.
3. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Permitting and Inspections Department.
5. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
6. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements, inspection fee payment of 2.0% of the guarantee amount and five (5) final sets of plans must be submitted to and approved by the Planning and Urban Development Department and Public Works Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
7. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
8. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Works representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
9. **Department of Public Works Permits** If work or obstructions will occur within the public right-of-way, such as utilities, curb, sidewalk, driveway construction, site deliveries and equipment siting, a Street Opening and/or Occupancy Permit (s) is required for your site. Please contact the Department of Public Works Permit Clerk at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
10. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning and Urban Development Department, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.
11. **Mylar Copies** Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to Public Works prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning and Urban Development Department at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Jean Fraser at (207) 874-8728.

Sincerely,



Sean Dundon, Vice Chair  
Portland Planning Board

**Attachments:**

1. Traffic Engineer dated 10.5.2017 (extract)
2. Peer Engineer comments dated 10.6.2017
3. Transportation Program Manager comments dated 10.6.2017
4. City Arborist comments dated 6.28.2017 (extract)
5. Planning Board Report
6. City Code, Chapter 32
7. Sample Stormwater Maintenance Agreement
8. Performance Guarantee Packet

**Electronic Distribution:**

cc: Jeff Levine, AICP, Director of Planning and Urban Development  
Stuart G. O'Brien, City Planning Director, Planning and Urban Development  
Barbara Barhydt, Development Review Services Manager, Planning and Urban Development  
Jean Fraser, Planner, Planning and Urban Development  
Philip DiPierro, DRC, Planning and Urban Development  
Mike Russell, Director of Permitting and Inspections  
Ann Machado, Zoning Administrator, Permitting and Inspections  
Jonathan Rioux, Deputy Director, Permitting and Inspections  
Jenie Bourke, Plan Reviewer/CEO, Permitting and Inspections  
Chris Branch, Director of Public Works  
Katherine Earley, Engineering Manager, Public Works  
Keith Gray, Senior Engineer, Public Works  
Doug Roncarati, Stormwater Coordinator, Public Works  
Jane Ward, Engineering, Public Works  
Rhonda Zazzara, Construction Engineering Coordinator, Public Works  
Jeff Tarling, City Arborist, Public Works  
Jeremiah Bartlett, Transportation Systems Engineer, Public Works  
William Scott, Chief Surveyor, Public Works  
Keith Gautreau, Fire  
Mike Thompson, Fire  
Danielle West-Chuhta, Corporation Counsel  
Jennifer Thompson, Corporation Counsel  
Victoria Volent, Housing Program Manager, Housing and Community Development  
Thomas Errico, P.E., TY Lin Associates  
Lauren Swett, P.E., Woodard and Curran  
Christopher Huff, Assessor

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## 218 Washington Avenue - Final Traffic Comments

1 message

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Tom Errico <thomas.errico@tylin.com>

Thu, Oct 5, 2017 at 1:20 PM

To: Jean Fraser <jf@portlandmaine.gov>

Cc: Keith Gray <kgray@portlandmaine.gov>, Katherine Earley <kas@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>, "Jeff Tarling (JST@portlandmaine.gov)" <JST@portlandmaine.gov>, Lauren Swett <lswett@woodardcurran.com>

Hi Jean – I have reviewed the revised application materials and offer the following final traffic comments as a status update of prior comments.

- The applicant has conducted a trip generation estimate for the project and less than 20 peak hour trips will be generated by the project. Accordingly, a Traffic Movement Permit or a formal Traffic Impact Study are not required.

**Status: I have no further comment.**

- The City standard for driveway separation on a roadway such as Washington Avenue is 100 feet. The applicant shall provide documentation in support of a waiver for driveway separation. In general, I'm concerned about future development on the abutting property and how best to manage access.

**Status: Given traffic volumes at the Eastern Promenade intersection versus traffic volumes generated by the abutting driveway (or a redeveloped site), the proposed driveway location maximizes separation from the intersection, which in my professional opinion is preferred. I support a waiver for driveway separation.**

- The City standard for corner clearance or distance to a nearby intersection is 150 feet for an arterial street like Washington Avenue. The applicant shall provide documentation in support of a waiver for corner clearance.

**Status: The applicant has located the driveway as far from the Eastern Promenade intersection as possible. Given low traffic volumes forecasted for the development and that the driveway is only 5-feet short of meeting the standard, I support a waiver for corner clearance.**

- The construction management plan shall be revised to preserve pedestrian and bicycle movements from the Back Cove shared use path. The applicant should note if impacts to Washington Avenue vehicle traffic is expected and if so how it will be managed.

**Status: The applicant has submitted a revised construction management plan and the following guidelines shall be adhered to. The applicant will be required to submit a revised plan for review and approval by DPW, prior to the start of work.**

- **The 5-foot temporary walkway is not acceptable for accommodating bicycle activity. The plan should note how bicyclist will be routed from Washington Avenue to the Tukey's Bridge path. It appears that either the pathway be widened to 8 feet (thus meeting minimum width standards for a shared use facility) or bicyclists will be required to share the road with vehicles and thus appropriate signs and pavement markings be provided.**
  - **The plan should note that the temporary path does required paving of the grass esplanade and removal of existing light structure (with a regulatory speed limit sign). The existing Washington Avenue crosswalk flashing warning sign is located in the proposed temporary pathway. Removal of this sign is not acceptable.**
  - **Greater detail is required for truck deliveries, particularly how trucks will enter and exit the site. It is the City's assumption that trucks will not be permitted to park on Washington Avenue.**
  - **Contractor worker parking details shall be provided.**
  - **If utility work is expected in the travel area of Washington Avenue, a construction management plan for that condition shall be provided. This also applies for any work in Anderson Street.**
- The plans note that two parking spaces will be provided at the driveway entrance (after the curve). The applicant should note the use of these spaces.

**Status: The plans no longer include these spaces. I have no further comment.**

- The applicant should provide information on how the tandem parking spaces will be managed.



**COMMITMENT & INTEGRITY**  
**DRIVE RESULTS**

41 Hutchins Drive  
Portland, Maine 04102  
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T 800.426.4262  
T 207.774.2112  
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## MEMORANDUM



**TO:** Jean Fraser, Planner  
**FROM:** Lauren Swett, PE  
**DATE:** October 6, 2017  
**RE:** 218 Washington Avenue, Level III Site Plan Response to Comments

Woodard & Curran has reviewed the Level III Site Plan Application Response to Comments and attachments for the proposed development located at 218 Washington Avenue in Portland, Maine. The project involves the construction of a 45 – unit condominium building.

### Documents Reviewed by Woodard & Curran

- Level III Site Plan Response to Comments and attachments, dated July 7, 2017, prepared by Sebago Technics, Inc, on behalf of 218 – 220 Washington Avenue, LLC.
- Engineering Plans, Sheets 1 – 23, dated July 24, 2017, prepared by Sebago Technics, Inc, on behalf of 218 – 220 Washington Avenue, LLC.

### Comments

- 1) In accordance with Section 5 of the City of Portland Technical Manual, a Level III development project is required to submit a stormwater management plan pursuant to the regulations of MaineDEP Chapter 500 Stormwater Management Rules, including conformance with the Basic, General, and Flooding Standards. We offer the following comments:
  - a) Basic Standard: Plans, notes, and details have been provided to address erosion and sediment control requirements, inspection and maintenance requirements, and good housekeeping practices in accordance with Appendix A, B, & C of MaineDEP Chapter 500. The erosion control filter barrier should be adjusted to follow the clearing limits along the storm drain utility installation area.
  - b) General Standard: The project will result in a net increase in impervious area of approximately 17,460 square feet. As such, the project is required to include stormwater management features for stormwater quality control. The Applicant has proposed an Underdrained Subsurface Sand Filter. The stormwater system is required to comply with the requirements of Chapter 7.3 of Volume III of the MaineDEP Stormwater BMP Manual. The system will provide for adequate stormwater treatment.
  - c) Flooding Standard: The project will result in a net increase in impervious area of approximately 17,460 square feet. As such, the project is required to control the rate or quantity of stormwater runoff from the site. Stormwater flow will have a slight increase during the 2-year storm event. We agree that the impact of the increase is negligible.
- 2) Concerns regarding the proposed stormwater system remain:
  - The Department of Public Works has concerns with accepting flow from the site into the Anderson Street stormdrain which is already at capacity. Additional flow restriction will be necessary.
  - The depth of the existing gas utility in Anderson Street will make the connection of the project's stormwater piping in Anderson Street challenging.
  - Anderson Street will require moratorium repair.
  - It is our understanding that the Applicant is currently working with Public Works, and will be modifying their stormwater design to address capacity and installation concerns. We understand that the final stormwater design will be made a condition of approval, and we will review modified stormwater management and utility plans as they are available.
- 3) We have reviewed the construction management plan and have the following comments:
  - a) We recommend that the graphic plan be updated to show the complete limit of work, including clearing limits around the building, and the stormwater installation.





- b) The utility work in Anderson Street should specifically be addressed as part of the construction management plan.
- c) The construction management plan should also address the retaining wall construction. A typical detail has been provided for the wall as part of the plans, but final wall design will be required for construction. We recommend that this requirement for final wall plans be included as part of the construction management plan.

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## Fwd: PEZ 2016.280 Fwd: 218 Washington

1 message

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**Jean Fraser** <jf@portlandmaine.gov>  
To: "Fraser, Jean" <jf@portlandmaine.gov>

Fri, Oct 6, 2017 at 1:44 PM

From: **Bruce Hyman** <bhyman@portlandmaine.gov>  
Date: Fri, Oct 6, 2017 at 12:15 PM  
Subject: Re: PEZ 2016.280 Fwd: 218 Washington  
To: Jean Fraser <jf@portlandmaine.gov>  
Cc: Keith Gray <kgray@portlandmaine.gov>, Tom Errico <thomas.errico@tylin.com>, Jeremiah Bartlett <jbartlett@portlandmaine.gov>

Reviewing the latest plans provided by the applicant, the following comments are provided:

Civil Sheet 8:

- the applicant shall demonstrate for 1) the sidewalk area adjacent to the building (minimum 5'); 2) the connection from the sidewalk area to the pedestrian crossing of Washington Avenue and 3) the shared use pathway adjacent to the street, that no cross-slopes will exceed the the maximum allowed 2% cross-slope by ADA - the construction details for the sidewalk and shared use pathway shall indicate this maximum 2% cross-slope
- where the effective sidewalk width within the public ROW between the raised planters and/or the building is less than 5', the applicant shall provide an easement to the city for the additional sidewalk width for up to at least 5' where it is available
- the outside width dimension of the raised granite tree wells shall be no more than 4' - the use of silva cells should mitigate the slight reduction in dimension of the tree wells (usually a 4' internal dimension)
- the driveway and its detail sheet shall indicate for which portion it will maintain the maximum 2% cross-slope across the pedestrian access route along Washington Avenue - this dimension shall be no less than 5' across the driveway
- there seem to be stray lines on this sheet that may be 'legacy' lines of the existing esplanade - these should be cleaned up to avoid confusion
- the disposition of the existing street light (owned by MaineDOT?) adjacent to the pedestrian crossing should be noted on the plans (and within the construction mgt plan to establish the 5' pedestrian route during construction and how adequate lighting of the pedestrian crossing will be maintained)
- the final design detail of the raised granite tree wells will be coordinated with Jeff Tarling, City Arborist - it is suggested that the updated detail reflect rounded corners

(per most recent city detail) and have a sloped granite profile for the edge and corners adjacent to the shared use pathway to reduce potential conflict with passing bicyclists - as noted before, it should have an outside maximum width dimension of 4'

Civil Sheet 10 (I have only reviewed the items listed below on Sheet 10):

- the detail sheet shall be updated to show the use of cast iron detectable warning panels throughout the project, where detectable warning panels are to be constructed
- the detail sheet shall be updated to show a maximum 2% cross-slope for the entire width of the brick sidewalk
- the detail sheet shall be updated to show a maximum 2% cross-slope for a 5' minimum width (typically at the back of driveway) pedestrian access route across the brick driveway - the design can introduce a grade break to accomplish this
- the detail sheet shall be updated to show a maximum 2% cross-slope for the entire (9') width for what is currently labeled 'Bituminous Sidewalk' - the label should be updated to be 'Bituminous Shared Use Pathway'
- the detail sheet shall be updated to show the light pole bases for the street lighting (Bayside Medium, LED, 3000k, Black) along Washington Avenue to be 2"-3" above finish grade - a detail shall be added (where appropriate) illustrating the correct Bayside Medium assembly (I cannot find one in the current plan sets)
- the details for 'Installation of Curb' and 'Curb Replacement Detail' shows a fixed 7" curb reveal - the height should be assessed based upon maintaining the maximum shared use pathway and sidewalk cross-slopes as noted above - any deviation from the standard 7" shall be noted and approved by the DPW

### Construction Mgt Plan

- the plan shall highlight how/if bicycle access will be maintained
- the plan shall highlight how a continuous pedestrian route along the frontage will be maintained (see comment above about existing street light that would block the 5' shown on the plan) and how lighting of the crossing will be maintained (via a temporary street light across the street?)

Please don't hesitate to contact me if you or the applicant have any questions on the above.

Bruce

## 218 Washington Avenue Project

Inbox x

Jeff Tarling <jst@portlandmaine.gov>

Jun 28

to me

Jean -

In review of the proposed 218 Washington Avenue project, I offer the following tree & landscape comments:

**a) Street trees and Washington Avenue frontage landscape** - The project proposes 9 'street-trees' planted along the Washington Avenue frontage along with a variety of landscape planting next to the building. The proposed street trees should have adequate planting space... tree # 1 from left to right or the Southerly end of the project appeared too close to the sidewalk in the landscape plan, revised drawings should address per field visit.

Esplanade options - Turf with trees, raised granite planter to reduce salt damage and compaction with groundcover planting. I would favor the most protection for the trees and landscape but other factors, pedestrian use near the sidewalk road edge is important. I agree with recommendations from Bruce Hyman on bike / ped suggestions and how the fit into the landscape plan.

Recommended tree type suggestions - Upright shade tree and not the American Elm that are too wide (crown width) for the space between the building and tree planter.

'Musashino' upright Zelkova (2016 Urban tree of the year)

Second choice - Upright, 'Armstrong' Red Maple 3" caliper

<https://www.ifschmidt.com/articles/musashino>

<http://www.ifschmidt.com/musashino/>

<http://www.amerinursery.com/plants/sma-announces-its-2016-urban-tree-of-the-year-zelkova-serrata-musashino>

<http://www.ifschmidt.com/pdfs/armstrongmaple.pdf>

**b) Washington Avenue landscape** - The project proposes landscape planting on the building side of the sidewalk partially within the street / sidewalk right of way. This important landscape feature should be protected by a low granite curb planter on the back side of the walk to protect the plants. This should be a condition of approval to

ensure this landscape survives. This planting should have an official agreement in the Condo docs in regards to maintenance responsibilities.

**c) Retaining wall landscape screening** - The project proposes to plant 54, 8' tall 'Dark American' Arborvitae along the retaining wall Anderson Street side edge to act as screening. Along with the Arb's, 15 8' upright Junipers will be planted near the corner of the parking garage entrance between the two Arborvitae plantings. Note - this site location is very exposed to strong Westerly winds and bright sunlight exposure, 'extra' care is needed during establishment to ensure the planting is successful. This should include a 3-year guaranteed defect period.

**d) Easement area** - The project shows an easement area with 'Existing Vegetation To Remain' notation. Currently this open lawn space contains a number of invasive plants, 'Multiflora Rose' and 'Japanese Knotweed' both of which are on the State of Maine Invasive Plant list. All projects should include plans to control invasive plants listed by the State of Maine and to prevent to the extent possible spreading or allowing these plants to spread to new areas.





# PLANNING BOARD REPORT PORTLAND, MAINE

Forty-five unit residential Condominium Building  
218 Washington Avenue  
Subdivision, Level III Site Plan  
and Conditional Use Inclusionary Zoning

218-220 Washington Avenue LLC, Applicant

Project #2016-280 (Subdivision & Site Plan)  
Project #2016-281 (Conditional Use Inclusionary Zoning)  
CBL: 010 A015001

Submitted to: Portland Planning Board Public Hearing Date: October 10 <sup>th</sup> , 2017	Prepared by: Jean Fraser, Planner Date: October 5 <sup>th</sup> , 2017
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## I. INTRODUCTION

The applicant has requested a hearing on their project for a 4 story building of 45 condominium dwelling units on Washington Avenue at 218 Washington Avenue on the west side of Washington Avenue near the slip road onto I-295. The mix of dwelling units will be 21 one-bedroom units and 24 two-bedroom units, slightly changed from the original proposal for 22 one-bedroom units and 23 two-bedroom units. The project is located in the B1b zone on a steeply sloping site that overlooks Back Cove; it is within 100 feet of the Eastern Promenade Historic Landscape District.

The proposal is also subject to the Inclusionary Zoning (IZ) ordinance and the initial proposal was to provide on site workforce housing units ( [Attachment W](#)). The applicant has since decided to make a fee-in-lieu payment into the Housing Fund as confirmed in an email dated 10.6.17 (also in [Attachment W](#)).

The proposals were originally submitted in December 2016. Following the resolution of right, title and interest questions, the Planning Board held two Workshops in May and July, 2017 where the Board raised concerns about the buffering of the retaining wall; the roof design, and the appearance when viewed from above.

This Hearing was noticed to 94 neighbors and interested parties, and the public notice appeared in the *Portland Press-Herald* on October 2<sup>nd</sup> and 3<sup>rd</sup>, 2017. The applicant held a Neighborhood Meeting on January 4<sup>th</sup>, 2017 and the notes are included in [Attachment U](#). At the Workshops the Planning Division received three letters of objection from the attorney acting for the abutter at 202 Washington ([PC 1](#), [2](#) and [5](#)); a comment ([PC3](#)) raising concerns about the design and scale of the building; and a comment ([PC4](#)) suggesting a different approach to the shared bike/pedestrian path along the frontage. No additional public comments have been received.



Applicant: 218-220 Washington Avenue LLC (represented by Maietta)  
Agent and Engineer: Sebago Technics (Will Conway)  
Architect: Archetype (Bill Hopkins)

Required reviews and requested waivers:

<b>Applicant's Proposal</b>	<b>Applicable Standards</b>
New structure of 45 dwelling units	Subdivision Review
Multifamily building of 69,459 sq ft	Level III Site Plan Review and B-1b Design Review
New structure of 45 dwelling units	Inclusionary Zoning Section 14-484
<b>Waiver Requests</b>	<b>Applicable Standards</b>
<p><b>Location and spacing of driveways-</b> To allow driveway spacing to be 145 ft from the Eastern Promenade intersection and 45 feet from the adjacent parcel's driveway.</p> <p><u>Staff Comments:</u> Staff supports both waivers as the proposed driveway is as far as possible from the Eastern Promenade intersection (<u>Att. 2</u>)</p>	<p>Technical Manual Section 1.7.2.7 Location and spacing of driveways <i>shall be determined as follows: Along arterial, collector and local streets, minimum acceptable spacing between double or multiple driveways for driveways on adjacent lots or on the same parcel shall meet the criteria of 100 feet, and corner clearance to a nearby intersection (arterial or collector streets) should be 150 feet.</i></p>

## II. PROJECT DATA

<b>SUBJECT</b>	<b>DATA</b>
<b>Total area of the site</b>	28,382 sq ft
<b>Total Disturbed Area</b>	22,532 sq ft
<b>Existing Zoning</b>	B1b
<b>Existing Use</b>	Small 2-family residential building and otherwise vacant
<b>Proposed Use</b>	Residential; 45 condo units
<b>Impervious Surface Area</b>	
--Existing	2,375 sq ft
--Proposed	22,532 sq ft
--Net Change	20,157 sq ft
<b>Building Footprint</b>	
--Existing	1,100 sq ft
--Proposed	13,751 sq ft
--Net Change	12,651 sq ft
<b>Building Floor Area</b>	
--Existing	2,200 sq ft
--Proposed	69,459 sq ft
-Net Change	67,259 sq ft
<b>Proposed Bedroom Mix</b>	
-One-Bedroom Units	21 One-Bedroom Units
-Two-Bedroom Units	24 Two-Bedroom Units
-Three-Bedroom Units	0 Three-Bedroom Units
	(Located as follows:
	<ul style="list-style-type: none"> <li>• 1st floor- 12 units; 7 one-bedroom; 5 two-bedrooms</li> <li>• 2nd floor- 12 units; 6 one-bedroom; 6 two-bedrooms</li> <li>• 3rd floor- 12 units; 6 one-bedroom; 6 two-bedrooms</li> <li>• 4th floor- 9 units; 2 one-bedroom; 7 two-bedrooms)</li> </ul>
	Total units- 45 units
	Total bedrooms: 69 bedrooms
<b>Parking Spaces</b>	45 under building (3 existing)
<b>Bicycle parking Spaces</b>	18 (none existing)
<b>Estimated Cost of the project:</b>	\$5,850,000



### III. EXISTING CONDITIONS

The development site is made up of three parcels previously in different ownerships, including one parcel that contains a two family home that will be demolished as part of the project [see right].

This section of Washington Avenue abuts the IL-b zone that runs along Anderson Street, to the west and below the site. To the north is land owned by the MDOT as part of the I-295 buffer; at this location the buffer is wide so that the land may not be permanently needed for I295 purposes.

To the east is the intersection of the Washington Avenue slip road connecting to I295, and the Eastern Prom which winds down from the east End School and Back Cove overlook. Only a small part of the open area to the east is part of the historic landscape and the rest is parkland. To the south is a two family residential property.

The site contains some mature vegetation on the northern half, but from the house (to be demolished) to the rear and south is mainly scrub and invasive species.



*Building to be demolished is at right of this photo*

The site includes a 20 foot wide section of relatively flat area nearest to Washington Avenue and then drops steeply by about 25 feet to the rear property line (see the Boundary Survey in [Plan 2](#)). This presents constraints on the development and construction techniques, which are discussed in greater detail as part of the review.

The site, along with other properties along Washington Avenue, benefits from long views over Back Cove.

### IV PLANNING BOARD WORKSHOP DISCUSSION AND PUBLIC COMMENT

There have been two Planning Board Workshops on this project. At the first meeting in May the Board expressed concern about:

- the need to buffer the high retaining walls from nearby residents;
- whether the first floor could have some other use to better activate the street;
- incorporation of a unbroken flat roof; and
- potential prominence of the mechanicals on the roof.

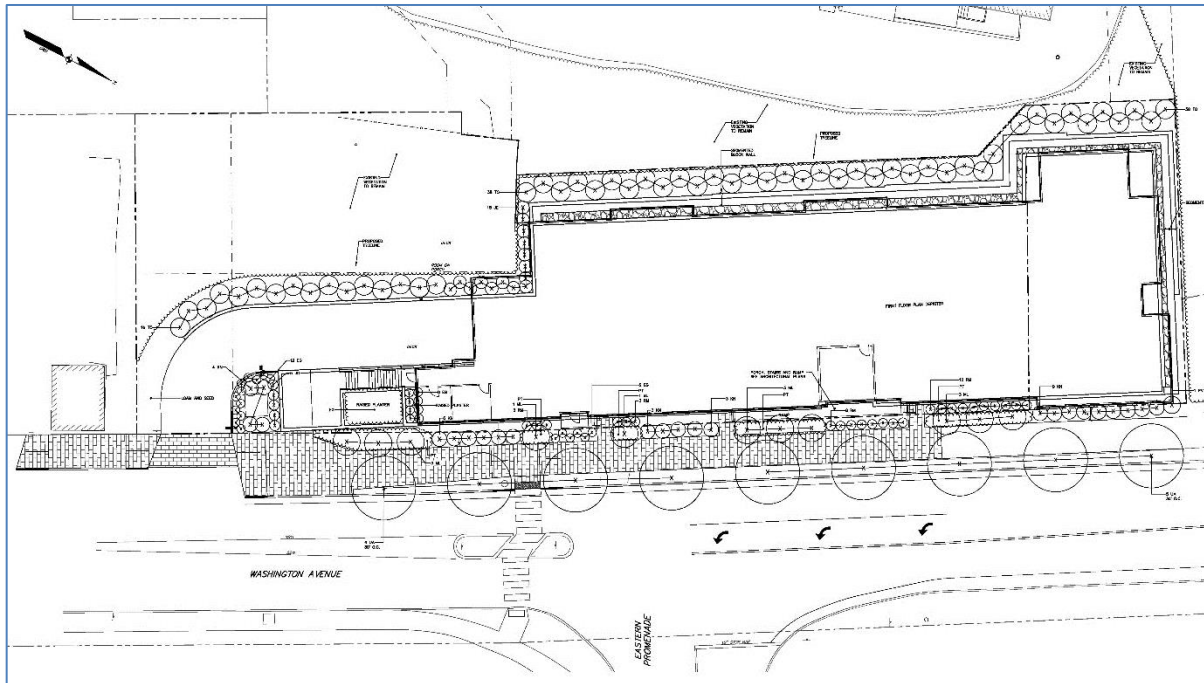
At the July Workshop the applicant presented revised the proposals to address these comments and the Board generally considered that the “scenic beauty” subdivision standard had been met but concerned about the roof design and requested the applicant to reconsider the way the doghouses on the roof were integrated. The Board

also identified the need for the condominium documents to control the use/appearance of roof top decks as they were so prominent.

The public comments included one comment (PC3) that also raised concerns about the scale and design of the proposed building. Three of the five public comments were from the neighbor's attorney regarding the question of right, title and interest and that question is discussed below in Section VI a. The other public comment (PC4) suggested an approach to the sidewalk and bicycle path along the frontage that was supported by staff and now incorporated into the final proposals.

## V. PROPOSED DEVELOPMENT

The proposals, including elevations and perspectives, are shown in the Plan set and described in the applicant's submittal. This extract (Plan P9) shows the building footprint and landscaping:



The final proposals include:

- 45 condo units (one and two bedroom);
- Main access from Washington Avenue;
- Lower level parking for 45 vehicles accessed from drive off of Washington Avenue;
- High retaining wall ranging from about 8 to 23 feet in height;
- Planting along the Washington Avenue frontage along with 9 street trees with sylvia cells;
- Planting buffers for all of the retaining wall facing west
- An unimproved (“preserved”) area of grass and low vegetation below the retaining wall towards the south and west;
- Restriping of Washington Avenue to create a left-turn lane for vehicles coming up from I-295 and turning into the Eastern Promenade;
- Bike path and sidewalk along the frontage, and bike access ramp within the sidewalk on the other side of Washington to create an access to the bike path for cyclists travelling northbound.

The final proposals have relocated the retaining wall (around the drive access) nearer to Washington Avenue so it can be lower and also be set back from the negative easement area. This allows for buffer/screen planting all along the face of the wall - see revised plans and renderings in the plan set.

The elevations and the treatment of the roofline (as viewed from the west) has developed over the course of the review as shown below:



218 WASHINGTON AVE SITE CONTEXT ELEVATION  
Portland, Maine

November 2016 **ARCHETYPE**  
architects

*As presented to May 9 PB Workshop*



*Submitted for July 11 PB Workshop*



*Submitted for October 10 PB Hearing*

The Floor Plans have also been submitted along with a total of 11 renderings illustrating how the building would appear from both near and distant views (Plans P16 and P17).

## **VI STAFF REVIEW**

### **A. RIGHT, TITLE AND INTEREST**

The applicant has submitted the deeds in respect of to the northern part of the site, and provided a Purchase and Sale Agreement for the parcel that makes up the southern part of the site (Attachment B). In addition, this property benefits from easements or land transfers with adjoining property owners along Anderson Street (referred to in Attachment E and included in Attachment B).

The southern parcel is of most concern as it includes a residential building that will be demolished to allow for the construction of a retaining wall (up to about 15 feet high in places) that supports the access drive into the garage under the condos. The remainder of the parcel is constrained by a “Boundary Agreement” with an “Amendment to Boundary Agreement” (see applicant’s submittal Attachment B, last two documents). This agreement stems from the fact that this area has been the subject of several development concepts in the past, and it became apparent during those earlier reviews that the boundary surveys for the two adjoining properties (202 Washington and 218 Washington) overlapped. Prior to proceeding with any development reviews of the former plans, the city requested that clear right title and interest be presented. The current Boundary Agreement (with Amendment) is the result of private negotiations.



The submitted right, title and interest was reviewed by Corporation Counsel and determined to meet the site plan requirement for evidence of “Right, Title and Interest” and suggested that in view of the questions that had been raised by the neighbor (three letters of objection from the attorney representing the neighbor at 202 Washington Avenue (PC 1, 2 and 5)) that a suggested condition of approval clarify that the Planning Board review does not include a determination on this matter. The applicant’s attorney submitted their opinion in Attachment B.

Below is a summary of the boundary agreement limitations:

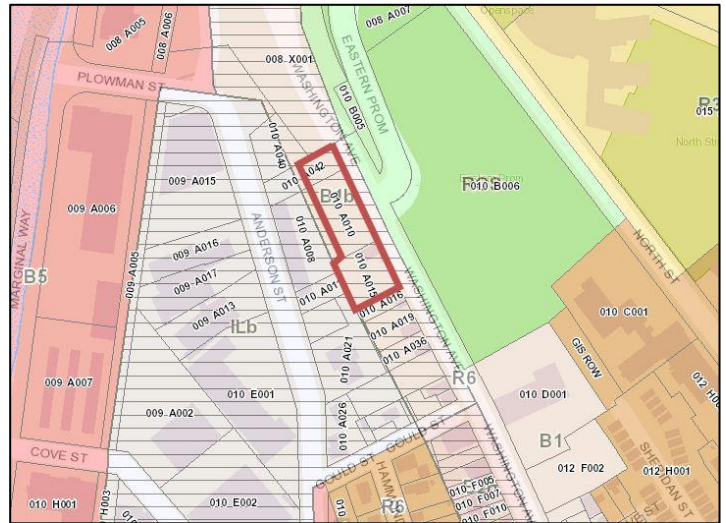
- Perpetual maintenance easement 30 feet in width along the common boundary, which allows for an access drive to be constructed (not a building) and requires a maintenance access along the boundary. The proposed drive access is at grade near Washington Avenue;
- “Negative Easement” that prohibits buildings or improvements within 50 feet of the NE boundary with Washington Avenue. The current proposals show "Existing vegetation to remain" (Plan 9).

## B. ZONING ASSESSMENT

The proposed building is located in the B1b zone which allows for a building height of 45 feet; the proposed building is 45 feet as from the average grade. It appears to be about slightly less than 45 feet high as measured from the level of Washington Avenue (see P14).

The proposal meets all of the other dimensional requirements of the B1b zone.

The Design Standards specify “*In B-1b zone buildings shall be multi-storied with mixed uses.*” However, the over-riding B1b ordinance states “*a) The following uses [which includes residential] are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone.*” (Attachment 7) Therefore under the zoning the proposed all-residential development is in compliance.



The applicant previously showed 45 parking spaces in the parking level underneath the residential units which met the zoning requirement of one space per unit (45 spaces). The final Site Plans (Plan P5) show a total of 43 parking spaces, including one compact space and 2 handicapped spaces. The previous plan had included tandem spaces which was questioned by the Traffic Engineering reviewer and have now been omitted. However, the parking provision does not meet the zoning requirement and a suggested condition of approval requests that the parking layout be revised to show 45 parking spaces or otherwise meet the B1b parking standards that would allow for other ways to address the parking space shortfall.

## C. SUBDIVISION STANDARDS

14-496. Subdivision Plat Requirements: The applicant has submitted a draft plat (Plan P3) which is generally acceptable but needs to add references related to the suggested conditions of approval.

14-497. General Requirements (a) Review Criteria

### ***Water, Air Pollution and Soil Erosion***

The applicant has submitted the capacity letter from the Portland Water District (Attachment N). The applicant revised the stormwater management system to address previous comments concerning the depth of the system, and further revisions are specified in a suggested condition to ensure that the stormwater system can be connected to the City’s system in Anderson Street (Attachment 3).

### ***Traffic***

The applicant has submitted a Traffic Study that provides a trip generation estimate that shows a Traffic Movement Permit is not required (Attachment J). The Traffic Engineering reviewer concurs with this assessment and requested a revised lane layout (for a left turn lane) that has been incorporated into the proposals and a suggested

condition requests final details and confirms that the applicant is responsible for the costs of implementing the new lane layout. (Attachment 2).

**Parking**

As noted above, the parking layout does not provide enough parking spaces to meet the zoning requirement and will need to be revised. The Traffic Engineer considers the general layout to be acceptable based on additional information regarding how all of the internal vehicle movements can occur without any need for vehicles to back out of the site (Attachment 2).

**Sanitary Sewer/Soils**

The application has been reviewed by the Peer Engineering Reviewer (Attachment 3) and is generally acceptable, and the wastewater capacity letter has been received (Attachment N).

**Storm water**

The applicant has submitted an updated Stormwater and Erosion Control Plan (Attachment L) that proposes to manage stormwater impacts by utilizing a StormTech chamber system with an underdrained subsurface sand filter to control peak runoff and provide treatment. The updated Plan addresses the earlier comments of the Peer Engineering Reviewer except that the applicant has not finalized the proposals for overcoming some of the challenges in connecting into the City’s system in Anderson Street (Attachment 3). Discussions between the applicant’s engineers and the City’s Department of Public Works are taking place and the suggested condition allows for this to be finalized.

**Scenic Beauty**

At the July PB Workshop this standard was discussed and the Board indicated that it had been addressed in principle but raised several design questions that needed further consideration, including concerns about the appearance of the rooftop mechanicals since they would be viewed from above. The applicant has addressed this question to some extent and a detailed discussion is included under the Site Plan Design review. A suggested condition relates to the mitigation of the rooftop mechanical equipment.

The applicant was requested to provide additional renderings showing how the proposed building would appear from different vantage points both close to and more distant from the site. The applicant has submitted 11 perspectives as included in Plans 16 and 17, including the one to the right which is from a point near North Street. This section of open space is not within the designated Historic Landscape.



**Comprehensive Plan**

The project is consistent with the Housing Goals and Policies of the Comprehensive Plan.

**D. SITE PLAN STANDARDS - 14-526 Site Plan Standards**

**1. Transportation Standards**

**Traffic - Access, Circulation, Loading and Servicing**

The proposals retain an existing curbcut (currently used for parking of several vehicles) to provide the access drive to the parking level. The Traffic Engineering Reviewer has noted that the access does not meet the City’s Technical Standards regarding driveway separation and corner clearance and supports waivers that reflect the existing condition and that the access drive has been located as far away as possible from the corner.(Att. 2).

### ***Sidewalks***

The final proposals incorporate the treatment of the ROW along Washington Avenue that staff had suggested which integrates a wide sidewalk, a wide bike path, 9 street trees and streetlighting. The applicant has also provided a way for cyclists heading northwest to transition from Washington Avenue to the bike path along the frontage of the site via a new ramp in the opposite sidewalk and this is welcomed. This is a particularly complex design and the final proposals are broadly acceptable subject to revision of details as outlined in the Transportation Program Managers comments (Attachment 6) as referenced in a suggested condition of approval.

### ***Construction Management Plan***

A Construction Management Plan has been updated to address the City's CMP template (Attachment I), but several reviewers have concerns regarding the safety of pedestrian and bicycle movements; the management of truck deliveries and contractor parking; impact on existing lights and signage; and the final details for the construction of the retaining walls on such a steeply sloping site (Attachments 2,3 and 6).

A suggested condition of approval requests that the applicant revise the Construction Management Plan to address all of these review comments.

### ***Public Transit Access***

The project would need to address the ordinance requirements as part of the final submissions, which may require provision of a bus transit shelter. At this time it is understood that METRO do not wish to have a shelter on Washington Avenue opposite the proposed development. The proposed work to improve the cycling infrastructure at this location may be considered as a substitute improvement.

***Parking:*** The proposed parking provision is discussed under Sections VI B *Zoning* and C *Subdivision Standards*.

### ***Snow Storage***

This may apply to the garage access drive and should be addressed in the Condominium Documents.

***Transportation Demand Management:*** The project is not subject to these ordinance provisions.

## **2. Environmental Quality Standards**

### ***Landscape Preservation / Site Landscaping and Screening***

During the review the applicant addressed previous concerns regarding the buffering of the high retaining walls; this is generally acceptable though the City Arborist has made several minor suggestions that are incorporated in the motion for the Board to consider (Attachment 4).

The City Arborist particularly identified a key requirement, relating to the area within the negative easement, to prevent the encroachment of invasive plants. A suggested condition of approval requires the development of a plan (for the control of invasive species) for review and approval prior to the issuance of a building permit that would also be referenced in the condominium Documents.

### ***Street Trees***

The applicant has proposed 9 street trees (based on the Landscape Plan in Plan P9) and requested to make a contribution in respect of 23 street trees. Staff consider that the contribution should cover 36 street trees and this would be a contribution of \$14,400. The applicant has proposed sylvia cells for the nine proposed street trees, and per the Technical Standards the cost of the sylvia cells can be put toward the street tree contribution. A suggested condition of approval sets out this arrangement for meeting the street tree requirement.

***Water quality, Stormwater Management and Erosion Control*** - see above under VI C *Subdivision Standards*.

## **3. Public Infrastructure and Community Safety Standards**

### ***Public Safety***

The Crime Prevention through Environmental Design (CPTED) standards in the site plan ordinance address the principles of natural surveillance, access control and territorial reinforcement so that the design of developments enhance the security of public and private spaces and reduce the potential for crime.

The proposals indicate a garage door at the entrance to the garage and do not appear to represent any particular concern. The final submissions include a lighting plan that covers the driveway but not the area near the garage door. Staff suggest that further lighting is required at that location and this is the subject of a suggested condition.

**Fire Prevention and Public Utilities:** The Fire Department has not identified any concerns regarding the final proposal.

#### **4. Site Design Standards**

**Massing, Ventilation and Wind Impact and Shadows:** Generally addressed in the Design Review.

**Historic Resources:** Although technically within 100 feet of the Historic Landscape of the Eastern Promenade. The historic part is the “toe” on the far side of the intersection, and does not include the park area immediately opposite the site on Washington Avenue. The Historic Preservation Program Manager has indicated that there is no direct impact and therefore no need for any further review.

#### **Exterior Lighting incl Street Lighting**

The applicant has submitted the specifications and a photometric for the site lighting and staff consider some revisions are necessary to meet CPTED objectives.

**Street Lights:** Reviewers have noted that the project will need to install new street lights along the frontage in the ROW (at the applicant’s cost). The lights would need to meet the Technical Standards for street lighting and match the lights installed elsewhere along Washington Avenue (Bayside medium, black). The comments from the Transportation Program Manager (Attachment 6) and the associated suggested condition confirm the requirement.

#### **Noise and Vibration**

The applicant has confirmed that the exact HVAC equipment has not been chosen at this time and requests that this information be provided prior to the issuance of a full building permit. The site plan ordinance requires:

- (i) All heating, ventilation and air conditioning equipment (HVAC), air handling units (AHU), emergency generators, and similar equipment shall meet applicable state and federal emissions requirements and shall comply with the following:
  - (a) Be located to the interior of the site, away from abutting residential properties;
  - (b) Be screened from view from any public street and from adjacent sites by structure walls, evergreen landscaping, fencing, masonry wall or a combination thereof.

The elevations (Plan P14) suggest that some HVAC will be on the roof and a suggested condition of approval requires the submission of a detailed plan showing what and where the HVAC will be located and how it will be screened.

### **E. DESIGN STANDARDS**

**Zoning:** The site is located within the B1b Zone and the City’s Urban Designer has concluded that the project is generally in compliance with the somewhat limited design standards that apply in this zone (see Att. 1). The Design comments include the following update regarding the applicant’s revisions to the roof design/doghouse and materials since the July Workshop:

- The applicant revised the elevations by varying the roofline and changing the cornice detail per Planning Board comment. In addition, the stair overruns were revised with glazing to minimize their visibility from views above and below. Staff finds these changes to have some mitigating impact but the overruns are still prevalent from long views. The roofline variation appears arbitrary except in the case of the central stair tower – staff supports raising the parapet walls to mask the rooftop appurtenance and to create a more consistent roofline.



- Planning Board members suggested incorporating more masonry into the design to ground the building and break up the use of fiber cement board. However, no significant changes to the materials are indicated in the revised drawings.

Please see the discussion under *Zoning* regarding the issue of multiuse on the first floor.

The local context is B1b and ILb zones with open space on the other side of Washington Avenue. There are longer distance views of the building from North Street and nearby parkland and from across Back Cove (illustrated in [Plan 17](#)) but there are no specific design standards that particularly apply to this issue (though the *Subdivision Standards* re Scenic Beauty does apply - see VI C above).

Multi-family and Other Housing Types Design Standard - This design standard also applies to the proposal, is outlined below with associated staff review comments:

***(i) TWO-FAMILY, SPECIAL NEEDS INDEPENDENT LIVING UNITS, MULTIPLE-FAMILY, LODGING HOUSES, BED AND BREAKFASTS, AND EMERGENCY SHELTERS:***

*(1) STANDARDS. Two-family, special needs independent living units, multiple-family, lodging houses, bed and breakfasts, and emergency shelters shall meet the following standards:*

*a. Proposed structures and related site improvements shall meet the following standards:*

*1. The exterior design of the proposed structures, including architectural style, facade materials, roof pitch, building form and height, window pattern and spacing, porches and entryways, cornerboard and trim details, and facade variation in projecting or recessed building elements, shall be designed to complement and enhance the nearest residential neighborhood. The design of exterior facades shall provide positive visual interest by incorporating appropriate architectural elements;*

*a. The proposed development shall respect the existing relationship of buildings to public streets. New development shall be integrated with the existing city fabric and streetscape including building placement, landscaping, lawn areas, porch and entrance areas, fencing, and other streetscape elements;*

Staff comment: as noted in the Urban Design Review comments ([Attachment 1](#)), there is little surrounding built context; the neighborhood is largely composed of industrial, business and open space uses. The perspective below and three others are included in [Plan 16](#) and illustrate how the project may appear locally.



*3. Open space on the site for all two-family, special needs independent living unit, bed and breakfast and multiple-family development shall be integrated into the development site. Such open space in a special needs independent living unit or a multiple-family development shall be designed to complement and enhance the building form and development proposed on the site. Open space functions may include but are not limited to buffers and screening from streets and*

*neighboring properties, yard space for residents, play areas, and planting strips along the perimeter of proposed buildings;*

Staff comment: The final project includes balconies and the site is adjacent to the parkland between Washington Avenue and North Street. The negative easement prevents a specific open space area being created on the site.

*4. The design of proposed dwellings shall provide ample windows to enhance opportunities for sunlight and air in each dwelling in principal living areas and shall also provide sufficient storage areas;*

Staff comment: This standard appears to be met.

*5. The scale and surface area of parking, driveways and paved areas are arranged and landscaped to properly screen vehicles from adjacent properties and streets;*

Staff comment: The parking is located underneath the units.

## **F. WORKFORCE HOUSING CONDITIONAL USE (INCLUSIONARY ZONING)**

This project is subject to the Inclusionary Zoning ordinance that ensures the provision of workforce housing. A development of ten or more units of housing in the City is required to provide on-site workforce housing units or make an in-lieu payment to the City's Housing Trust.

As applied to this project the applicant could provide 4 deed-restricted units on site, 4 deed-restricted units off site, or \$461,250 fee-in-lieu to the Housing Trust. If the provision of on-site units is chosen, the number of bedrooms also must be at least 10% of the total and has confirmed that this meets the minimum requirements of Section 14-487 (Attachment al number of bedrooms included in the project).

The applicant had recently confirmed (see Attachment W and floor plans) that they had chosen to meet the IZ requirement by providing 4 units on site. Just as this report was being finalized the applicant decided to make an in-lieu payment to the Housing Trust instead, and an e-mail confirmation of the \$461,250 payment is included in Attachment W. (Please note that the note on the floor plans regarding workforce housing has now been superseded).

The Housing Program Manager has reviewed the latest proposal and confirms that the proposal meets the requirements of Section 14-487 (Attachment 5).

## **VII STAFF RECOMMENDATION**

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the Planning Board approve the proposed residential development at 218 Washington Avenue.

## **VIII PROPOSED MOTIONS**

### **A. WAIVERS**

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 the public hearing on October 10, 2017 for application 2016-280 (218 Washington Avenue) relevant to Portland's technical and design standards and other regulations; and the testimony presented at the Planning Board hearing:

1. The Planning Board [**finds/does not find**], based upon the consulting traffic engineer's review (Attachment 2), that extraordinary conditions exist or undue hardship may result from strict compliance with the Technical Manual Section 1.7.2.7 *Location and spacing of driveways*. The Planning Board [**waives/does not waive**] the *Technical Manual* standard (Technical Manual Section 1.7.2.7) to allow the driveway serving the new development to be located as shown in the Site Plans in Plan P5 and as described in Attachment F.

## **B. INCLUSIONARY ZONING – CONDITIONAL USE**

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 the public hearing on October 10, 2017 for application 2016-281 (218 Washington Avenue) relevant to the Conditional Use as authorized by Division 30, Section 14-487 Ensuring Workforce Housing; and the testimony presented at the Planning Board hearing:

The Planning Board finds that the Conditional Use **is/is not** in conformance with the standards of the land use code and **approves/does not approve** the application, subject to the following conditions of approval:

- i. That the Applicant shall pay a fee of \$461,250 into the City's Housing Trust Fund prior to the issuance of a Certificate of Occupancy.

## **C. SUBDIVISION**

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 the public hearing on October 10, 2017 for application 2016-280 (218 Washington Avenue) relevant to the subdivision regulations; and the testimony presented at the Planning Board hearing:

The Planning Board finds that the plan **is/is not** in conformance with the subdivision standards of the land use code and **approves/does not approve** the application, subject to the following conditions of approval, which must be met prior to the signing of the plat unless stated otherwise:

- i. The applicant shall submit a final subdivision plat for review and approval by Corporation Counsel, the Department of Public Works, and the Planning Authority; and
- ii. That the applicant shall develop and submit, for review and approval by the City Arborist prior to signature of the plat, a plan for the ongoing and future control of the invasive species that are along the site boundary and likely to spread within the site if not controlled. The invasive species found at the site include "Multi-flora Rose" and "Japanese Knotweed", both of which are on the State of Maine Invasive Plant List and subject of recent State legislation to control. This plan, once approved, shall be referenced on the subdivision plat and in the condominium documents; and
- iii. The subdivision plat and Condominium Association documents shall include reference to the plan for the control of invasive species and clarify responsibilities for the future control of invasive species, use and appearance of the rooftop decks, snow storage, and maintenance of landscaping and sylvia cells in the ROW; and
- iv. The Condominium Association documents shall be finalized to the satisfaction of the Associate Corporation Counsel and Planning Authority.
- v. The applicant shall obtain licenses for the planted areas that encroach into the City's ROW prior to the issuance of a building permit.
- vi. That this decision represents a finding by the Planning Board that the application satisfies the requirements of the City Code. It is approved on the basis of the information provided by the applicant in the record regarding his/her ownership of the property. The applicant has the burden of ensuring that he/she has a legal right to use the property. This approval in no way relieves the applicant of this burden. Nor does this approval constitute a resolution in favor of the applicant on any issues regarding property boundaries, easement rights, ownership or other similar title issues. The applicant is advised to resolve such disputes before expending money in reliance on this approval.

#### **D. SITE PLAN**

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board report for the public hearing on October 10, 2017 for application 2016-280 (218 Washington Avenue) relevant to the Site Plan Ordinance and other regulations and the testimony presented at the Planning Board hearing:

The Planning Board finds that the plan **is / is not** in conformance with the site plan standards of the land use code, subject to the following conditions:

- i. That the applicant shall submit, for review and approval by the Department of Public Works and the Planning Authority prior to the issuance of a building permit, a revised Utility Plan and Stormwater Management Plan that clarifies the way the stormwater from the development site will be managed in Anderson Street. The applicant has been advised during the review that the existing storm drain in Anderson Street does not have capacity to accept additional flows from the proposed project and that Anderson Street is a moratorium street with a recently installed gas main that will constrain the stormwater connections. The applicant shall be responsible for all work in Anderson Street required to provide an acceptable stormwater discharge system and for all associated moratorium street fees; and
- ii. That the applicant and all assigns shall comply with the conditions of Chapter 32 stormwater including Article III, post-construction storm water management, which specifies the annual inspections and reporting requirements. The developer/contractor/subcontractor must comply with conditions of the submitted construction stormwater management plan and sediment and erosion control plan prepared by Sebago Technics and dated June 2017 based on City standards and State guidelines. A Maintenance Agreement for the stormwater drainage system shall be approved by Corporation Counsel and the Department of Public Works, and submitted, signed and recorded prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Works; and
- iii. That the Construction Management Plan shall be revised for review and approval by the Department of Public Works and the Planning Authority prior to the issuance of a building permit, to address the comments from the Traffic Engineer dated 10.5.2017, the Peer Engineer comments dated 10.6.2017, and the Transportation Program Manager comments dated 10.6.2017; and
- iv. That the following plans shall be revised and submitted for review and approval by the Planning Authority prior to the issuance of a building permit:
  - a. Site Plan (Plan P5) to revise the parking space layout to show 45 parking spaces (or the applicant may submit proposals for meeting the B1b zone requirements in other ways as allowed in the land use ordinance, also for review and approval prior to the issuance of a building permit);
  - b. Detail Plans sheet 10 (Plan 8) and Landscaping Plan sheet 8 (Plan 9) to address the comments of the Transportation Program Manager dated 10.6.2017 and to show that the Street Lamps are Bayside medium in black and part of the projects cost and construction;
  - c. Landscaping Plan (Plan 9) to address the planting comments of the City Arborist dated 6.28.2017.
- v. That the lighting plan shall be revised for review and approval by the Planning Authority prior to the issuance of a building permit, to show adequate lighting in the vicinity of the parking garage entrance/door; and
- vi. That a plan showing the location and screening of all HVAC and other mechanical equipment on the roof shall be submitted for review and approval by the Planning Authority prior to ordering of the equipment; and

- vii. That the applicant has demonstrated that site constraints prevent the planting of all of the 45 required street trees (one per unit for multi-family development) in the right-of-way, and therefore the applicant shall contribute \$14400 for 36 street trees to Portland's tree fund. This figure will be reduced by the cost of the nine sylvia cells, subject to the applicant submitting evidence of the costs to the Planning Authority and City Arborist.

## **ATTACHMENTS:**

### **Attachments to Staff Report**

1. Design Review - Final comments
2. Traffic Engineering Preliminary Review comments
3. Peer Engineer final review comments
4. City Arborist comments
5. Housing Program Manager review of Conditional Use IZ
6. Transportation Program Manager
7. B1b Use requirements re ground floor

### **Public Comments**

- PC1 Attorney Schofield on behalf 202 Washington 1.19.17  
PC2 Attorney Schofield on behalf 202 Washington 5.9.17  
PC3 K Snyder 5.9.17  
PC4 C MilNeil  
PC5 Attorney Schofield on behalf 202 Washington 7.10.17

### **Applicant's Submittal**

- A. Application (Site Plan/subdivision)
- B. Right, title and Interest (updated for final)
- C. State & Federal Approvals
- D. Zoning analysis
- E. Easements
- F. Waiver requests (updated for final)
- G. Financial and Technical Capacity
- H. Boundary survey
- I. Construction management Plan (updated for final)
- J. Traffic Study
- K. Natural Features
- L. Stormwater Management Plan
- M. City Master plans
- N. Utilities (updated for final (docs)
- O. Solid Waste
- P. Fire
- Q. Design Review
- R. HVAC
- S. Lighting Specs (updated for final)
- T. Retaining Wall Specs (updated for final)
- U. Neighborhood Meeting
- V. Narrative re Multi-Family Design Standards
- W. Workforce Housing application and plans

Since July Workshop

- X. Parking access templates
- Y. Response to Comments
- Z. Condominium documents

**Plans**

- P1 Cover sheet
- P2 Boundary Survey & Existing Conditions
- P3 Draft Plat
- P4 Demolition Plans
- P5 Site Plans (2 sheets)
- P6 Utility Plan
- P7 Grading Plans (2 sheets)
- P8 Details (4 sheets)
- P9 Landscaping Plan
- P10 Watershed Plans (2 sheets)
- P11 Site Context (2 sheets)
- P12 Site Section
- P13 Floor Plans
- P14 Elevations (2 sheets)
- P15 Context Aerials (2 sheets)
- P16 Renderings- Local Views (6 sheets)
- P17 Renderings- Distant Views (3 views)