

# CITY OF PORTLAND, MAINE

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## PLANNING BOARD

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December 23<sup>rd</sup>, 2013

Jonathan Culley  
Redfern Munjoy LLC  
P.O. Box 8816  
Portland, ME 04104

**Project Name:** Munjoy Heights  
Six new buildings comprising 29 residential townhouses; one existing house on reconfigured lot

**Project ID:** 2013-228

**Project Address:** 79 Walnut Street

**CBL:** 12-F-2 (part), F-4, F-7, F-18; 12-G-6; 12-H-1, H-3, H-5, H-7, H-9, H-13, H-17, H-22

**Applicant:** Jonathan Culley, Redfern Munjoy LLC

**Planner:** Jean Fraser

Dear Mr Culley:

On December 17<sup>th</sup>, 2013 the Portland Planning Board considered and approved a Level III Final Site Plan and Subdivision proposal to construct a 30 "lot" residential subdivision made up of 29 new units in six 3-4 story townhouse-style buildings and one existing residential building on a reconfigured lot.

The Planning Board reviewed the proposal for conformance with the standards of the Subdivision Ordinance and Site Plan Ordinance and voted 6-0 (Dean absent) to approve the application with the following waivers and conditions as presented below.

### 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 #57-13 for application 2013-228 (Munjoy Heights, 79 Walnut Street) relevant to Portland's Technical and Design Standards and other regulations, and the testimony presented at the Planning Board hearing:

1. The Planning Board voted 6-0 (Dean absent) to waive the Ordinance Section 14-526 (a) (4) (b) and (c) Bicycle, Motorcycle and Scooter Parking to allow the proposed parking in garages to meet the standard, subject to 9 outside bicycle parking spaces being provided along the access drive for visitors.
2. The Planning Board voted 6-0 (Dean absent) to waive the Technical Manual Section 1.7.1.5 that requires granite curbing along the full radius of the driveway entrance to allow tip down curbing to be incorporated for the sidewalk, subject to a revised design being reviewed and approved by the Planning Authority and Department of Public Services and shown on the final site plan and relevant engineering drawings prior to issuance of the building permit.

**DEVELOPMENT REVIEW**

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report # 57-13 for application 2013-228 (Munjoy Heights, 79 Walnut Street) relevant to the Site Plan and Subdivision reviews and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds the following:

**1. SUBDIVISION**

The Planning Board voted 6-0 (Dean absent) that the plan is in conformance with the subdivision standards of the land use code, subject to the following conditions of approval:

- i. That the applicant shall submit title insurance/title opinion regarding the rights to develop the portions of the former Sheridan and East Cove paper streets prior to release of signed Subdivision Plat, and submit evidence that the actions associated with the claims have been taken prior to the issuance of a building permit; and
- ii. That the easements and other documentation demonstrating right title and interest shall be finalized to the satisfaction of the Corporation Counsel and recorded prior to the release of the signed subdivision plat; and
- iii. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Corporation Counsel, and Department of Public Services and include detailed references to easements, parking limitations for units 1-11, snow removal, trail and trail connection maintenance, Condominium Association documents and relevant conditions; and
- iv. That the Condominium Association documents shall reference the Stormwater Maintenance Agreement and Stormwater Inspection and Maintenance Plan, adequate snow removal and the ongoing maintenance of the 20 foot wide vehicle access lane and the trail and trail connections, to be reviewed and approved by Corporation Counsel. The documents shall also address the relevant conditions of approval and be finalized to the satisfaction of the Corporation Counsel prior to the recording of the Subdivision Plat; and
- v. That the Portland Trails Agreement shall be revised to: include snow removal, hours of use of trails, and other maintenance obligations for the connection to East Cove Street within the obligations of the Grantor/Condominium Association and to be consistent with the obligations for the rest of the easement area; address the staff and Portland Trail comments in this report; and be agreed with Portland Trails, the City's Corporation Counsel, Department of Public Services and the Planning Authority prior to the release of the signed subdivision plat, and recorded prior to the issuance of the certificate of occupancy with a copy to the Planning Authority; and
- vi. That the applicant shall add notes to the subdivision plat, condominium documents and/or unit deeds and obtain such other legal agreements/easements as are necessary, subject to the review and approval of Corporation Counsel and prior to the release of the signed subdivision plat, to secure the rights and limitations listed below:
  - That the basic arrangements shown on the draft plat and in draft easements with abutters Rando and McAdam remain as presented to reviewers (Attachment V to this Report) in the final review for the Planning Board hearing;
  - That the agreed public access (Portland Trails Easement) is maintained at all times and available for safe use year round, over the area shown in Attachment U to this Report;
  - That the minimum vehicle access of 20 feet is maintained at all times by adequate snow removal in accordance with the approved Snow Storage Plan (Plan 21 to this Report) and a specific prohibition on parking in front of the garages for Units 1-11 due to encroachment into the 20 foot circulation area required by the fire Department.
- vii. That the applicant shall post the performance guarantee required under the Housing Preservation and Replacement Ordinance prior to the issuance of a demolition permit for the demolition of the two existing residential buildings at 79 Walnut Street and 1 East Cove Street; and

- viii. 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 final submitted construction, stormwater management and sediment & erosion control plans and reports (Attachments H and J and Plans 8 and 36 to this Report) and relevant City standards and state guidelines. A maintenance agreement for the stormwater drainage system shall be submitted for review and approval by Corporation Counsel and Department of Public Services prior to the issuance of a building permit, and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services.

## 2. SITE PLAN REVIEW

The Planning Board voted 6-0 (Dean absent) that the plan is in conformance with the site plan standards of the Land Use Code, subject to the following condition(s) of approval:

- i. That the applicant shall submit final plans to the Portland Water District for their review and approval, and forward documentation of PWD's approval to the Planning Authority prior to the issuance of a building permit; and
- ii. That the applicant may be required to install a crosswalk on Walnut Street between their driveway and Sheridan Street. The crosswalk question will be reviewed by the City's Crosswalk Committee to assess the appropriateness of a crosswalk at the subject location. If deemed to be required by the Crosswalk Committee, the applicant shall be responsible for the installation of the crosswalk with supporting features. These supporting features may include (in addition to paint markings and signs) lights for safe illumination, ADA compliant ramps, curb extensions, etc. If required, the applicant shall be responsible for submitting a plan to DPS for review and approval; and
- iii. That the applicant shall submit detailed/revised Landscape Plans to address the following, for review and approval by the Planning Authority and City Arborist prior to the issuance of a building permit:
  - Mitigation of the retaining wall and other impacts for abutters or where viewed directly by abutters;
  - Resolution of the Portland Trail node locations (ie where the stairs meet the access drive/parking area) so that the stairs enter the area via a dedicated pedestrian way and the trail is more visible (to address PT comments in letter dated 12.11.2013 and Traffic review comments dated 12.11.2013); and
  - To address the City Arborist Jeff Tarling comments dated 12.12.2013 concerning planting material.
- iv. That the applicant shall provide illustrative material to show how the ramp leading to East Cove Street will appear to users and further discuss the design of this ramp with the City Arborist and Portland Trails to develop a design that meets Crime Prevention, safety and maintenance objectives, for review and approval by the Planning Authority prior to the issuance of a building permit; and
- v. That the applicant shall submit the revised civil engineering plans to confirm that the 20 foot access width in the central drive access is flush and constructed to withstand the weight of Fire Department vehicles and their outriggers for the entire 20 foot width over the entire length of the access drive, and to address the Engineering Review comments of Dave Senus dated 12.6.2013 items 2); 3); 12); 13); 17); 18); and 19); all for review and approval by the Planning Authority prior to the issuance of a building permit; and
- vi. The applicant has noted on Plans Sheet C-32 & C-33 that Summit Engineering Services in coordination with Structural Integrity Consulting Engineers, Inc shall provide the retaining wall design, global stability analysis, and the design of the temporary soil restraint measures, as required. The referenced retaining wall designs shall be completed, stamped by a professional engineer, and submitted to the City of Portland Inspections Department and Planning Authority as part of the Building Permit process prior to construction of any retaining walls; and

- vii. That the applicant shall have the proposed street addresses for the townhomes approved by the City E-911 Addressing Officer prior to the issuance of a certificate of occupancy; and
- viii. That the applicant shall submit additional lighting information to clarify whether the proposed site lighting (including building mounted lighting) meets the City's Technical Standards; and
- ix. All signage shall be subject to separate permits through the Inspections Division, with any traffic signage subject to view and approval by the Planning authority and Department of Public Services.

The approval is based on the submitted plans and the findings related to site plan and subdivision review standards as contained in Planning Report #57-13 for application #2013-228, which is attached. The standard conditions of approval are listed below.

#### STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

1. **Subdivision Recording Plat** A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the issuance of a performance guarantee. The performance guarantee must be posted 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 and 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 the 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 Inspection Division.
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. **Subdivision Plan Expiration** The subdivision approval is valid for up to three years from the date of Planning Board approval.
7. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a subdivision plat for recording at the Cumberland County of Deeds, and 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.
8. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. **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 Service's representative and owner to review the

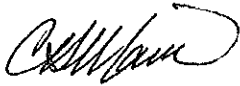
construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

10. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
11. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.
12. **Mylar Copies** Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to the Public Services Dept. prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division 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 you have any questions, please contact Jean Fraser at 874 8728 or [jf@portlandmaine.gov](mailto:jf@portlandmaine.gov)

Sincerely,



Carol Morrissette, Chair  
Portland Planning Board

**Attachments:**

1. Traffic Engineering Review comments dated 12.11.2013
2. Portland Trail letter dated 12.11.2013
3. City Arborist comments 12.12.2013
4. Engineering Review (Woodard & Curran) comments 12.6.2013
5. Planning Board Hearing Report #57-13 [and Attachments H, J, U and V, Plans 8, 21 and 36]
6. City Code Chapter 32
7. Sample Stormwater Agreement
8. Performance Guarantee Packet

**Electronic Distribution:**

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Jennifer Thompson, Associate Corporation Counsel  
Thomas Errico, P.E., TY Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Approval Letter File