**Excerpts from 01-28-14 Planning Board Report, 118 Congress Street; Re: Sidewalk Overhangs**

**C. SITE PLAN STANDARDS**

14-526 Requirements for approval

1. ***Transportation***
* ***Traffic - as discussed above under Subdivision Review***
* ***Construction Management Plan***- The applicant has submitted a Construction Management Plan (Plan P16) that utilizes adjacent property for the staging, and creates a parallel path for pedestrians along Congress Street and reroutes pedestrians to the other side of St Lawrence Street. The plan has been reviewed by Tom Errico, Traffic Engineer and while acceptable in principle there are a number of details that need to be addressed, with a revised plan submitted for review and approval (Attachment 2). A potential condition of approval addresses Mr Errico’s comments.
* ***Sidewalk and ROW***

The Department of Public Services has reviewed the proposal and comments on the final submissions are included in Attachment 4; it is noted that Congress Street is a moratorium street until 2017.

Although the applicant has set the building back one foot, the Congress Street decks (6 - each about 20 feet long) still overhang the ROW by 1ft 4 inches. On St Lawrence the three overhangs are 2ft 6 inches in depth and the entirety of this width overhangs the ROW (see note on Elevations in Plan P15 and Plans P12 and P22).

The table below compares the overhangs as proposed at the Workshop with the revised overhangs incorporated in the final Plan Set:

|  |  |  |
| --- | --- | --- |
|  | **Submitted version** **presented at Workshop** | **Final version (Jan) for Hearing** (building moved back 1 ft from Congress) |
| **Congress St east** (3 levels)* Overhang over ROW
* Length of overhang
* Area over ROW
 | * 2ft 4 inches
* 20ft 9 inches
* 48.4 sq ft over ROW
 | * 1ft 4 inches
* 21 ft
* 28 sq ft over ROW
 |
| **Congress St west** (nearest St Lawrence (3 levels)* Overhang over ROW
* Length of overhang
* Area over ROW
 | * 2ft 4 inches
* 22ft 8 inches
* 52.8 sq ft over ROW
 | * 1ft 4 inches
* 22ft 10 inches
* 30.4 sq ft over ROW
 |
| **St Lawrence St** (3 levels)* Overhang over ROW
* Length of overhang
* Area over ROW
 | * 2 ft 6 inches
* 19 ft 6 inches
* 48.8 sq ft over ROW
 | * 2 ft 6 inches
* 19 ft 6 inches
* 48.8 sq ft over ROW
 |
| **Entrance Canopy over Congress St*** Overhang over ROW
* Length of overhang
* Area over ROW
 | * 2ft 4 inches
* 28 ft 11 inches
* 68.7 sq ft over ROW
 | * 1ft 4 inches
* 28 ft 11 inches
* 39 sq ft over ROW
 |

DPS still do not support any encroachments over the ROW and cite snow removal and falling ice as particular issues over the public sidewalk (Attachment 4). The Planning Board at the Workshop were concerned about the impact on the ability of the public to enjoy this section of sidewalk and requested additional views and graphics to understand how the overhangs and bulk of the building would relate to the public realm. Additional graphics have been submitted and those of particular relevance are the Line Diagrams (Plans P18 and P19) and the four near perspectives in Plan P20.

The City Arborist also is concerned about the overhangs in terms of the impact on street trees and views (Att. 6), and the Urban Designer notes that there is no compelling reason (eg site constraints or to maintain historic character) why the building can not be set back so that the balconies are within the property line (Attachment 7 ).

1. **Staff Recommendation**

The proposed 14 unit commercial/residential condominium project appears to meet the minimum standards of review, subject to the proposed conditions, with the exception of the overhangs over the public sidewalk. Any licenses for encroachment into the ROW must be approved by the City Council and the standard potential condition has been included to at least cover the canopy over the entrance.

Staff remain of the view that there is no need for the decks and living spaces to be outside the property boundaries except that they would allow better views, as noted in the marketing brochure distributed at the workshop. This is the first project where open decks have encroached into/over the ROW- other licenses have been for (usually fewer) enclosed bays that protrude from the plane of the building, so this project introduces a precedent.

The overhangs have a number of adverse impacts: ice and snow falling onto the sidewalk; visual encroachment into the public realm; and constraints on the street trees. They are not supported by DPS, City Arborist and the Urban Designer.

If the Planning Board approves the project with the overhangs as shown (six decks/overhangs encroaching 1’4” over Congress Street; three decks/overhangs encroaching 2’6” over St Lawrence Street) the City Council would consider that as support for the overhangs and support for the granting of a license from the City.

Staff have therefore included a potential condition of approval that requires the applicant to redesign the decks/overhangs so that there is no encroachment over the ROW while retaining the decks/overhangs to achieve articulation and interest on this façade. Staff suggest there are a number of ways this could be achieved without substantially altering the overall design. If the Board determine that the overhangs over the ROW are acceptable, this potential condition may be removed.

1. **Site Plan Review**

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 condition(s) of approval:

Potential conditions of approval:

1. The applicant shall submit a revised building design that results in the entire building (including decks and overhangs but not the entrance canopy, **or** particular specified decks/overhangs) being within the property boundaries while maintaining the current quality of design in regards to facade articulation and variation of form, for review and approval by the Planning Board prior to signing of the Subdivision Plat; and
2. That the applicant shall obtain a license from the City Council, subject to review and approval by the Corporation Counsel’s office, for any building features associated with the approved design that extend over the City right-of-way, prior to the release of the signed Subdivision Plat; and