

# CITY OF PORTLAND, MAINE

## PLANNING BOARD

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February 3<sup>rd</sup>, 2014



Ed Theriault  
EMT, LLC (118 Condominiums, LLC)  
118 Congress Street  
Portland, ME 04101

**Project Name:** “118 on Munjoy Hill” Condominium  
12 unit residential, and 2 unit commercial, condominium  
**Project ID:** #2013-255  
**Project Address:** 118 Congress Street  
**CBL:** 16-D-2  
**Applicant:** Ed Theriault, EMT, LLC (118 Condominiums, LLC)  
**Planner:** Jean Fraser

Dear Mr Theriault:

On January 28<sup>th</sup>, 2014 the Portland Planning Board considered and approved a Level III Final Site Plan and Subdivision proposal for the construction of a 4-story 14 unit condominium building at 118 Congress Street, comprising 2 commercial units totaling approximately 1800sq ft floor area, 18 parking spaces on the ground floor to the rear of the commercial units, and 12 residential units above.

The Planning Board reviewed the proposal for conformance with the standards of the Subdivision Ordinance and Site Plan Ordinance and voted 7-0 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 for the public hearing on January 28, 2014 for application #2013-255 (118 Congress 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 7-0 to waive the Technical Design Standard Section 1.14 *Parking Lot and Parking Space Design* to allow for 13 of the indoor parking spaces to measure 18 feet by 8’6”.
2. The Planning Board voted 7-0 to waive the Technical Design Standard Section 1.14 *Parking Lot and Parking Space Design* to allow a drive aisle of less than 24 feet, as shown on Plan P12.

### DEVELOPMENT REVIEW

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 January 28, 2014 for application #2013-255 (118 Congress 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 7-0 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 Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Corporation Counsel, and Department of Public Services and include detailed references as advised by the Associate Corporation Counsel in e-mail dated 1.23.2014 and relevant conditions; and
- ii. That a Stormwater Management Agreement and all easements shall be finalized to the satisfaction of the Corporation Counsel prior to the issuance of a Certificate of Occupancy; and
- iii. That the Condominium Association documents shall include references to the Stormwater Maintenance Agreement and Stormwater Inspection and Maintenance Plan, landscape maintenance (including in ROW) and all easements and licenses and be reviewed and approved by Corporation Counsel prior to the recording of the Subdivision Plat; and
- iv. 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 construction stormwater management plan and sediment & erosion control plan based on City standards and state guidelines. A maintenance agreement for the stormwater drainage system as described in Attachment J and Plans 10 and 11 of this Report, shall be approved by Corporation Counsel and Department of Public Services, and submitted and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services; and
- v. That the applicant shall submit revised plans and associated documentation, for review and approval by the Planning Authority and City Arborist prior to the issuance of a building permit, to address the comments by the City Arborist, Jeff Tarling, dated 1.22.2014 regarding the street tree location, species and long term maintenance of the other plantings in the ROW; and
- vi. That the applicant shall make a contribution to the City's Street Tree Fund of \$1400 (for 7 trees) prior to the issuance of a certificate of occupancy.

## 2. SITE PLAN REVIEW

The Planning Board voted 7-0 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. The applicant shall submit a revised building design that results in the decks on St Lawrence Street 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 Authority prior to signing of the Subdivision Plat; and
- ii. 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
- iii. That the applicant shall obtain easements or temporary construction agreements for all work outside the boundaries of the site; these (if any) shall be reviewed and approved by Corporation Counsel and the recorded copies shall be provided to the Planning Authority prior to the issuance of a building permit; and
- iv. That the applicant may be required to install a crosswalk on Congress Street at the easterly side of the St. Lawrence Street intersection. The City's Crosswalk Committee may review the subject location and identify recommendations for installing a crosswalk. If deemed appropriate by the Crosswalk Committee the applicant shall be responsible for implementation of all features of the crosswalk including but not limited to pavement markings, signage, and ADA compliant ramps; and
- v. That the applicant shall submit the revised civil engineering plans to address the Engineering Review comments of Dave Senus dated 1.16.2014 for review and approval by the Planning Authority prior to the issuance of a building permit; and
- vi. That the applicant shall submit a revised Landscape Improvement Plan to address the City Arborist comments of 1.22.2014 in respect of the site landscape (buffering and additional trellis), to also address CPTED principles as relevant, for review and approval by the Planning Authority and City Arborist prior to the issuance of a building permit; and

- vii. That the applicant shall submit the plans, documents and other materials to address the Traffic Review comments of Tom Errico dated 1.23.2014 in respect of loading and servicing and impact on street parking/City's Traffic Schedule, for review and approval by the Planning Authority, Department of Public Services and Parking Division prior to the issuance of a Certificate of Occupancy; and
- viii. That the applicant shall submit, for review and approval by the Planning Authority and the Department of Public Services prior to the start of any work on site, a revised Construction Management Plan that addresses the comments of Tom Errico dated 1.23. 2014; and
- ix. That the two adjustable "flood" lights on the front of the building over the commercial unit windows shall be adjusted in accordance with the City's Technical Standard 12 "Site Lighting" Section 12.4.

The approval is based on the submitted plans and the findings related to site plan and subdivision review standards as contained in the Planning Board Report for the public hearing on January 28, 2014 for application #2013-255 (118 Congress Street), which is attached. The standard conditions of approval are listed below.

The Planning Board, in considering this project, were aware that the associated building projections (including decks) over the ROW would need a license to be approved by the City Council and that there were staff concerns about this aspect of the project. The Planning Board voted 5-2 (Dean and Hall opposed) to send a Communication to the City Council outlining the basis of the Board's support for the projections on this particular project.

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

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

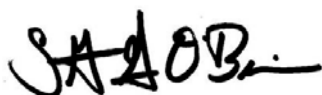
1. **Subdivision Recording Plat** A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the posting of a performance guarantee. The performance guarantee must be posted prior to the release of the recording plat for recording at the 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.

Sincerely,



Stuart O'Brien, Chair  
Portland Planning Board

#### **Attachments:**

1. Associate Corporation Counsel comments dated 1.23.2014
2. City Arborist comments dated 1.22.2014
3. Engineering Review (Woodard & Curran) comments 1.16.2014
4. Traffic Engineering Review comments dated 1.23.2014
5. Plan P12
6. P. B. Hearing Report for the public hearing on January 28, 2014 re application #2013-255 (118 Congress Street)
7. City Code Chapter 32
8. Sample Stormwater Agreement
9. Performance Guarantee Packet

#### **Electronic Distribution:**

Jeff Levine, AICP, Director of Planning and Urban Development  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Jean Fraser, Planner  
Philip DiPierro, Development Review Coordinator  
Marge Schmuckal, Zoning Administrator  
Tammy Munson, Inspections Division Director  
Lannie Dobson, Inspections Division  
Michael Bobinsky, Public Services Director  
Katherine Earley, Engineering Services Manager, Public Services  
Bill Clark, Project Engineer, Public Services  
David Margolis-Pineo, Deputy City Engineer, Public Services  
Doug Roncarati, Stormwater Coordinator, Public Services  
Greg Vining, Associate Engineer, Public Service

Michelle Sweeney, Associate Engineer  
John Low, Associate Engineer, Public Services  
Rhonda Zazzara, Field Inspection Coordinator, Public Services  
Mike Farmer, Project Engineer, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Jeremiah Bartlett, Public Services  
Captain Chris Pirone, Fire Department  
Danielle West-Chuhta, Corporation Counsel  
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

Paper Copies:

Thomas S Greer, PE

Thomas Federle Esq., Federle Mahoney

28 Vannah Avenue  
Portland, ME 04103

254 Commercial Street, Ste F  
Portland, ME 04101

**From:** Jennifer Thompson  
**To:** Fraser, Jean  
**Date:** 1/23/2014 7:45 AM  
**Subject:** 118 Congress Street - Plat and Condo Docs

Jean - I agree with your assessment. The Plat and the condo docs for this application are marginal. Although I realize that the practice has, somewhat by necessity, been to make final edits to the plat and condo docs a condition of approval, there is still a requirement that applications for subdivision approval be complete when they go before the Board and that the proposed plat and condo docs contain sufficient detail to allow the Board to make an informed decision. As you say, for this one the plat and condo docs need to be clear with respect to:

- Existence of the parking level and number of spaces and access
- Sq footage of commercial units and at least the aggregate square footage of residential
- Location of street trees
- location of raingarden (abutting Eben ALbert-Knoff property line) and ref stormwater system maintenance (confirming that this is not city and referring to agreement etc)
- more detail re overhangs over ROW
- Show all nearby buildings on plat
- Maintenance of green walls on side and rear elevations
- Existing and anticipated utilities and any associated easements
- Responsibility for general maintenance and trash and snow removal

The subdivision plat really needs to inform folks of necessary information on its face. It is not sufficient to be incorporating by reference other sheets when it comes to the essential contents of the plat. As with all applications, I direct these folks to our ordinance, which outlines what is required on all plats. Their attorney should similarly be familiar with the State statute that outlines necessary components of condominium documents.

Jennifer L. Thompson  
Associate Corporation Counsel  
City of Portland, Maine  
(207)784-8480

**From:** Jeff Tarling  
**To:** Jean Fraser  
**CC:** David Margolis-Pineo  
**Date:** 1/22/2014 2:49 PM  
**Subject:** 118 Congress Street Project

Hi Jean -

118 Congress Street project / tree & landscape review comments:

**a) Street-trees** - the project proposes to plant (6) street trees, (4) along Congress Street, 'save' the existing Pin Oak and plant (2) new on Saint Lawrence Street. Updated plan shows the trees planted in raised granite tree wells with herbaceous planting. If on-street parking is proposed, the tree spacing or setback away from the curb to prevent the opening of car doors is important. The trees can be placed to match the in-between on-street parking, making sure there is good access to the sidewalk from parked cars. The residential tree standard of one tree per unit would also be a condition. Building overhangs over the public way should be discouraged to allow the street tree growth.

**'Tree Save'** - I was hoping the project could protect or save the large Pin Oak on Saint Lawrence Street, while the recent plan does show this, a recent site visit confirmed the crown of the tree would be severely impacted or one-sided, thus reluctantly yield to the fate of removal due to proposed building location. An additional street tree would be requested. Also, the proposed new tree on Congress Street near the corner of Saint Lawrence should be shifted slightly away from the intersection perhaps 2 - 3'. The recently planted American Elm along Congress Street should be saved and replanted by the city.

**Tree types** - It would be ideal if the tree types along Congress Street are all the same species. I would recommend the Columnar 'Musashino' Zelkova to be ideal due to the narrow space. See <http://www.jfschmidt.com/articles/musashino> and photo below.

The 'Red Sunset' Maple crown shape is too broad for this space. Along Saint Lawrence Street again a more narrow tree is needed, it could be Ginkgo 'Magyar' or 'Autumn Gold' cultivar (seedless), due to narrow sidewalk space. (photo 'Musashino' Zelkova, narrow vase shape crown)

**b) Landscape** - The recent revision adds herbaceous planting to the tree planters and the 'backyard' / rain-garden edge. Additional screening to the adjacent property should be considered, this might be achieved by adding higher branching landscape planting or higher fencing (5'). The rain-garden planting with mostly herbaceous plant material will reach a low height. It does not appear to meet the B-1 Zone landscape standard ( i ) " A densely planted buffer and / or fencing will be required to protect neighboring properties..." Suggestions could including some taller shrub plants along with a higher wooden fence. The Green Wall proposed will also help screen the building. Additional green-wall / landscape planting could be used on the West elevation to the left of the garage door, this area seems blank; and to the left of the center door on Congress Street away from the overhead canopy.

**Granite planters in right of way** - the six granite planters are proposed to be planted with street-trees and 'Cranesbill', perennial geranium. This will add interest to the typical mulched tree well. Long term however it is unlikely the city would be able to maintain these plantings. Ideally, the project could adopt the tree wells and maintain the landscape planting.

**Landscape Comment** - Personally, I was hoping to see additional landscape element along the street frontage along Congress Street and Saint Lawrence Street. Either in the form of behind the sidewalk planter or green wall if the various building facade walls could have jugged in to create a small landscape niche. I noted a variety of past projects where this seemed to work successfully.

Fitting a new project of this scale and prominent location into a neighborhood like Munjoy Hill where everyone walks, homeowners take pride and their landscape with events like the 'Hidden Gardens of Munjoy Hill', landscape should be an important element.

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## MEMORANDUM

TO: Jean Fraser, Planner  
FROM: David Senus, P.E. & Ashley Auger, E.I.T.  
DATE: January 16, 2014  
RE: 118 on Munjoy Hill, Level III Site Plan Review

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Woodard & Curran has reviewed the revised Level III Site Plan Application for the development project located at 118 Congress Street in Portland, Maine. The project will involve the construction of a new four story mixed-use building consisting of residential units and retail space.

### Documents Reviewed by Woodard & Curran

- Revised Level III Site Plan Application and attachments, dated January 2, 2014, prepared by Pinkham & Greer Consulting Engineers on behalf of 118 Condominiums, LLC.
- Engineering Plans, Sheets C1.0, C1.1, C1.2, C1.3, C1.4, C1.5, C1.6, & C1.7, revised January 2, 2014, prepared by Pinkham & Greer Consulting Engineers on behalf of 118 Condominiums, LLC.
- Landscaping Details, Sheet L2.0, dated December 31, 2013, prepared by Mohr & Seredin Landscape Architects, Inc.
- Construction Management Plan, dated November 13, 2013, prepared by Pinkham & Greer Consulting Engineers on behalf of 118 Condominiums, LLC.

### Comments

- 1) The final submittal does not include letters from utility companies confirming capacity to serve the proposed development. If responses are not received prior to Public Hearing, we recommend requiring submittal of ability to serve letters from the utilities as a condition of approval.
- 2) The Applicant has provided a plan, notes, and details to address erosion and sediment control requirements, inspection and maintenance requirements, and good housekeeping practices in general accordance with Appendix A, B, & C of MaineDEP Chapter 500. The plan should also include a note stating that the street Right-of-Way shall be kept clean from dust, tracked soil/mud, and construction debris and swept as necessary or as requested by the City of Portland to minimize dust and sediment originating from the site.
- 3) The Applicant proposes a rain garden along the east edge of the site to promote infiltration and detention of roof water prior to discharge to the combined sewer. It appears that the roof drain pipe will connect to the underdrain system below grade, filling the rain garden from below. The roof drain pipe should include a screen or in-line filter to avoid debris or solid material passing into the below grade underdrain, where maintenance and cleaning would be challenging. The design should also include an above grade opening in the roof drain line to avoid a backup condition in the pipe (a high flow outlet).
- 4) The plans should note the size, material, and slope for the proposed storm drain connection to the combined sewer in St. Lawrence Street. Pending input from DPS, a wye connection to the sewer may be acceptable and the proposed sewer/drain manhole may not be needed. In addition, DPS would prefer that the storm drain pipe be installed "shallow" from the rain garden to the right-of-way, angling down to connect to the combined sewer (approximately 3' of cover in the road would be an acceptable depth). This will aid in potential future sewer separation efforts in St. Lawrence Street.
- 5) The following details for work within the City Right-of-Way should be provided in accordance with the City's Technical Manual:
  - a) Pavement Repair Cross Section detail
  - b) Brick Sidewalk detail
- 6) All previous review comments have been adequately addressed.



## Attachment 4

**From:** Tom Errico <thomas.errico@tylin.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**CC:** David Margolis-Pineo <DMP@portlandmaine.gov>, Katherine Earley <KAS@portlandmaine.gov>, Jeff Tarling <JST@portlandmaine.gov>, "JeremiahBartlett" <JBartlett@portlandmaine.gov>  
**Date:** 1/23/2014 11:39 AM  
**Subject:** 118 Congress Street - Final Traffic Comments

Jean - The following is a status update of my December 12, 2013 comments and represent my final comments.

- \* The project will be providing in excess of one parking space per residential unit and therefore meets City standards.

**Status: I would note that per zoning standards, parking provisions for the commercial uses are not required and thus the project only provides parking for the residential use.**

- \* I find the proposed driveway condition to be acceptable. The project will be eliminating two curb cuts on Congress Street and providing one driveway on St. Lawrence Street.

**Status: No comment necessary.**

- \* Some of the parking spaces on site do not meet City standards (reduced size - but larger than compact size spaces) and a waiver will be required. A formal waiver and supporting information shall be provided by the applicant.

**Status: In addition to the request for a parking stall dimension waiver, the applicant is also requesting a waiver for a reduction in parking aisle width from 24 feet to 23 feet. I support waivers from these City standards.**

- \* In my professional opinion the proposed project will not generate a significant amount of traffic and is not expected to have a negative impact on traffic safety and operations in the study area.

**Status: No comment necessary.**

- \* Historically a crosswalk has been provided on Congress Street at the easterly side of the St. Lawrence Street intersection. The City's Crosswalk Committee shall review the subject location and identify recommendations for installing a crosswalk. If deemed appropriate by the Crosswalk Committee the applicant will be responsible for installing the crosswalk and all supporting features.

**Status: A condition of approval should be included that notes if a crosswalk is required by the City's Crosswalk Committee the applicant will be responsible for implementation of all features of the crosswalk including but not limited to pavement markings, signage, and ADA compliant ramps.**

### *New Comments*

- \* Changes in on-street parking regulations will be required as a result of the project. Accordingly changes to the City's Traffic Schedule will be required, thus requiring City Council action. The applicant will be responsible in providing materials in support of the Council request packet.
- \* Deliveries and services vehicles for the project will be expected to do so from the street. The applicant shall coordinate with the Parking Division and the Department of Public Services for the type of on-street regulations to be implemented on Congress Street along the project frontage. The applicant will be responsible for all costs associated with signage installation.

- \* I have reviewed the construction management plan provided by the applicant and I find the general concept to be acceptable. Specific comments are noted below:
- o All temporary sidewalks and crosswalks will need to be ADA compliant.
  - o Further detail will be required for determining the safest location for a temporary crosswalk on St. Lawrence Street. This includes sight distance and driveway locations, at a minimum.
  - o The applicant will be responsible for winter maintenance of the temporary facilities as well as along the public street abutting the detour on Congress Street.
  - o The details of the delineator posts need to be further reviewed.
  - o The contractor will be responsible for work including signage and pavement markings and work must meet requirements of the Manual on Uniform Traffic Control Devices.
  - o A schedule of activities should be provided and documentation on the need for sidewalk closures, in terms of duration, shall be provided.
  - o The applicant shall be responsible for submitting a Construction Management Plan for review and approval prior to the issuance of any City Permit.

If you have any questions, please contact me.

Best regards,

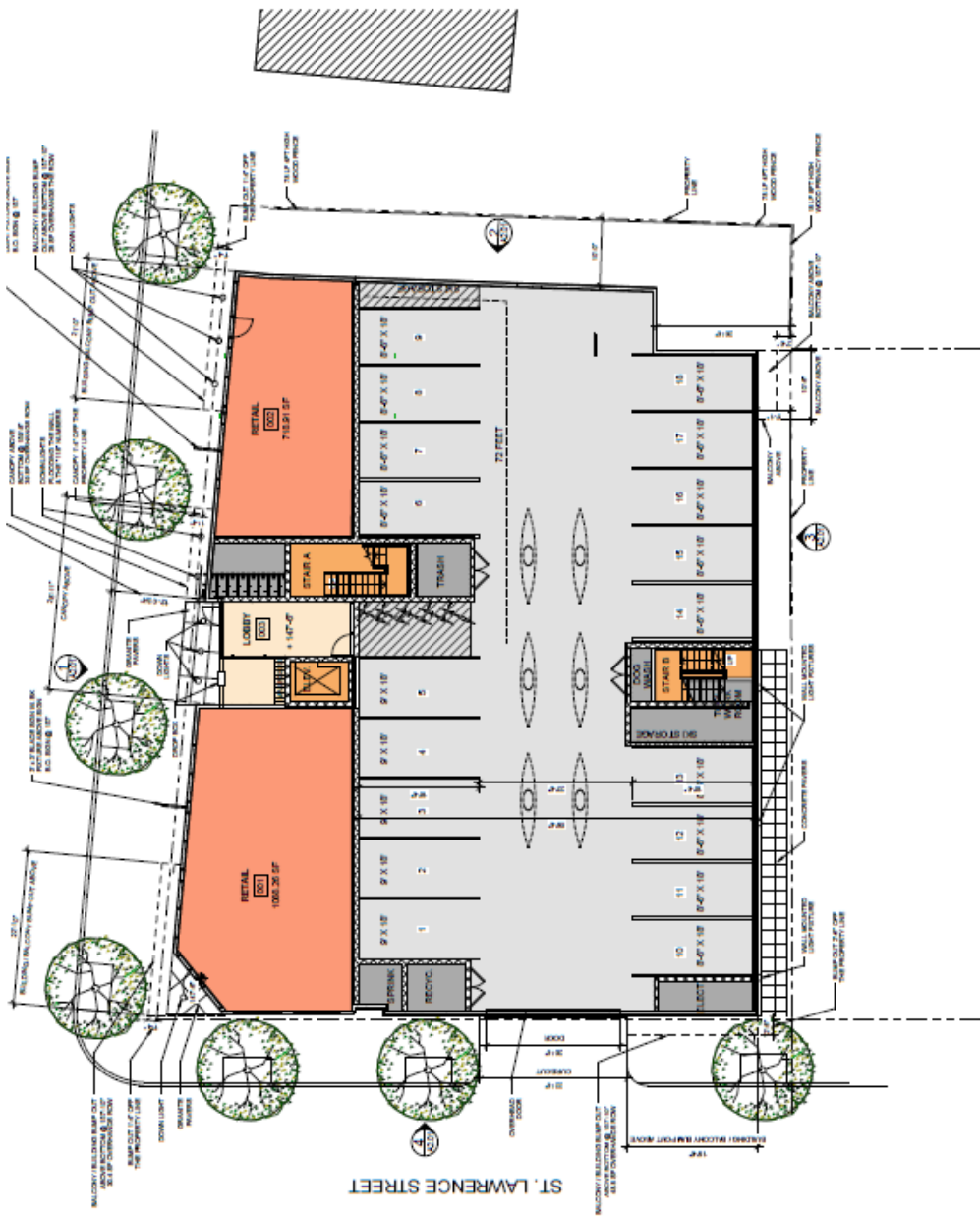
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PLAN DETAIL	WALL TYPE	FLOOR TYPE
	NEW WALL - STUD & GYP. BD.	
	NEW CMU WALL	
	NEW MASONRY	
	EXISTING CMU WALL	
	EXISTING STUD WALL	
	EXISTING MASONRY WALL	
	DEMO AND REMOVE	



1 | PARKING LEVEL | PROJECT FOOTPRINT: 8,884 GSF