

# CITY OF PORTLAND, MAINE

## PLANNING BOARD

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March 24<sup>th</sup>, 2016

Bob and Carrie LeBlanc  
Peninsula Property Development  
59 Moody Street  
Portland, Maine 04101

Will Savage  
Acorn Engineering, Inc  
158 Danforth Street  
Portland, Maine 04102

Project Name: **Construction of new four-unit residential condominium building**

Level III Subdivision and Site Plan

Project #: #2016-005

Address: 31 Fore Street, Portland

CBL: 016 J026001

Applicant: Peninsula Property Development

Planner: Jean Fraser

Dear Bob and Carrie LeBlanc, and Will Savage:

On March 22<sup>nd</sup>, 2016, the Planning Board considered the Level III Subdivision and Site Plan application for the construction of a new four-unit residential condominium building at 31 Fore Street. The proposal comprises the demolition of the existing three-unit residential building and replacement with a new structure that includes a lower level for covered parking for 6 vehicles, stormwater treatment in a raingarden, and landscape and sidewalk improvements. The Planning Board reviewed the proposal for conformance with the standards of the Subdivision and Site Plan Ordinances, and approved the application with the following waivers and conditions as presented below.

### 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 March 22, 2016 for application 2016-005 relevant to Portland's technical and design standards and other regulations; and the testimony presented at the planning board hearing:

#### 1. *Distance from corner*

The planning board voted 7-0, based upon the consulting traffic engineer and DPW reviews, that extraordinary conditions exist or undue hardship may result from strict compliance with the *Technical Manual* standard 1.7.1.7 that requires "access driveways to corner lots shall be located a minimum of 35 ft from the intersection of the projection of right-of-way lines to the center line of the driveway", that substantial justice and the public interest are secured with the variation in this standard, and that the variation is consistent with the intent of the ordinance. The planning board waives the *Technical Manual* standard (*Section 1.7.1.7*) to allow the access driveway to be 31.26 feet from the intersection based on an understanding that the driveway location is constrained by the architectural requirements.

#### 2. *Parking Drive Aisle*

The planning board voted 7-0 that based upon the consulting traffic engineer's review, that extraordinary conditions exist or undue hardship may result from strict compliance with the *Technical Manual* standard (*Section 1.14*) which requires that aisle width for right-angle parking be 24 feet per *Figure I-27*, that substantial justice and the public interest are secured with the variation in this standard, and that the variation is consistent with the intent of the ordinance. The planning board waives the *Technical Manual* standard (*Section 1.14*) to allow a 27.75 foot wide aisle in the parking garage.

3. **Street Trees:**

The planning board voted 7-0 that the applicant has demonstrated that site constraints prevent the planting of all required street trees in the right-of-way. The planning board waives the site plan standard (*Section 14-526 (b) (iii)*) requiring one street tree per unit for multi-family development and concludes that the applicant shall plant a fourth small “street tree” just within the applicant’s site on Waterville Street frontage (species to be agreed with the City Arborist), and if it is determined (in agreement with the City Arborist) that this is not feasible, the applicant shall contribute \$200 for one street tree to Portland’s tree fund.

**B. SUBDIVISION 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 the public hearing on March 22, 2016 for application 2016-005 relevant to the subdivision regulations; and the testimony presented at the planning board hearing, the planning board finds that the plan is in conformance with the subdivision standards of the land use code, subject to the following conditions of approval, which must be met prior to the signing of the plat:

1. The applicant shall finalize the subdivision plat for review and approval by Corporation Counsel, the Department of Public Works, and the Planning Authority; and
2. The applicant shall finalize condominium documents for review and approval by Corporation Counsel, the Department of Public Works, and the Planning Authority.

**C. SITE PLAN 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 March 22, 2016 for application 2016-005 relevant to the site plan regulations; and the testimony presented at the planning board hearing, the planning board finds that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions of approval that must be met prior to the issuance of a building permit, unless otherwise stated:

- i. That the applicant shall confirm which entrance is the main entrance and revise this main entrance to meet the R6 Design standards as outlined in the Design Review comments, and to meet the Site Lighting Standards of the Technical Manual, with the revised proposals submitted to the Planning Authority for review and approval prior to the issuance of a building permit; and
- ii. That the applicant shall prepare a revised Construction Management Plan to address the comments of the Traffic Engineering reviewer Tom Errico dated 3.16.2016, for review and approval by the Planning Authority; and
- iii. That the applicant shall submit plans and associated information the clarify the location and sound levels of all external heating, ventilation and other mechanical equipment and document that they meet the City’s Site Plan, Zoning and Technical Standards, for review and approval by the Planning Authority; and
- iv. That the applicant shall take all measures to protect the existing street tree on Fore Street as recommended in the City Arborist comments dated 3.16.2016; and
- v. That in respect of the City’s ROW the applicant shall:
  - a. Address the comments of the Department of Public Work David Margolis -Pineo dated 3.16.2016 and the comments of the Peer Engineer Dave Senus dated 3.17.2016;
  - b. Ensure that the bicycle parking hitches in the ROW are designed to meet the Technical Standards; and
  - c. Show that the design of the balconies will direct drainage and ice/snow so that it will not fall on the sidewalk.

- vi. That the applicant shall submit a revised on-street parking layout that takes account of the relocated curb cut for review and approval by the Planning Authority prior to the issuance of a Certificate of Occupancy. It should be noted that any changes to on-street parking will require City Council action prior to the issuance of a Certificate of Occupancy, and the applicant would be required to assist in preparing council meeting materials; and
- vii. That the applicant shall submit a revised parking layout within the parking garage to show an ADA compliant parking space, for review and approval by the Planning Authority prior to the issuance of a building permit. The applicant may convert up to 2 spaces to be less than standard size and may reduce the number of parking spaces to meet this requirement, subject to meeting zoning requirements and satisfying the Traffic Engineer regarding operation.

The approval is based on the submitted plans and the findings related to site plan and subdivision review standards as contained in Planning Report for application #2016-005 which is attached.

#### 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 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 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 six (6) 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. **Housing Replacement Performance Guarantee** Please be advised that the performance guarantee must also address the requirements of the ordinance Division 29. *Housing Preservation and Replacement* (copy attached), particularly section 14.483 (j) which requires owners or affiliates to post a performance guarantee equivalent to the amount the applicant would have been required to contribute to the City's Housing Trust Fund if the housing was not replaced. This performance guarantee would be held until the replacement units receive Certificates of Occupancy.

9. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
10. **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.
11. **Stormwater Management Agreement** The owner/operator of the approved stormwater management system should note the requirements of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements. A maintenance agreement for the stormwater drainage system, as attached (#8), or in substantially the same form with any changes to be approved by Corporation Counsel, shall be submitted, signed and recorded prior to the issuance of a building permit with a copy to the Planning Division and Department of Public Services.
12. **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.
13. **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.
14. **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 there are any questions, please contact Jean Fraser at 874-8728.

Sincerely,

Elizabeth Boepple, Chair  
Portland Planning Board

**Attachments:**

1. Final Design Review comments dated 3.11.2016
2. Traffic engineer Review comments 3.16.2016
3. City Arborist comments 3.16.2016
4. DPW comments 3.16.2016
5. Peer Engineer reviewer comments 3.17.2016
6. Planning Board Report for #2016-005 31 Fore Street
7. City Code Chapter 32
8. Stormwater Management Agreement Template (subdivisions)
9. Performance Guarantee Packet
10. Ordinance Division 29. *Housing Preservation and Replacement*

## **Electronic Distribution:**

cc: Jeff Levine, AICP, Director of Planning and Urban Development  
Stuart G. O'Brien, City Planning Director  
Barbara Barhydt, Development Review Services Manager  
Jean Fraser, Planner  
Philip DiPierro, Development Review Coordinator, Planning  
Ann Machado, Zoning Administrator, Inspections Division  
Tammy Munson, Inspections Division Director  
Jonathan Rioux, Inspections Division Deputy Director  
Jeanie Bourke, Plan Reviewer/CEO, Inspections Division  
Brad Saucier, Administration, Inspections Division  
Katherine Earley, Engineering Services Manager, Public Services  
Bill Clark, Project Engineer, Public Services  
David Margolis-Pineo, Deputy City Engineer, Public Services  
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Greg Vining, Associate Engineer, Public Services  
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Jeremiah Bartlett, Public Services  
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Thomas Errico, P.E., TY Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Approval Letter File