

CITY OF PORTLAND, MAINE

PLANNING BOARD

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March 24th, 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 22nd, 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
Doug Roncarati, Stormwater Coordinator, Public Services
Greg Vining, Associate Engineer, Public Services
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
Keith Gautreau, Fire Department
Jennifer Thompson, Corporation Counsel
Thomas Errico, P.E., TY Lin Associates
David Senus, P.E., Woodard and Curran
Rick Blackburn, Assessor's Department
Approval Letter File

Planning and Urban Development Department

Planning Division



Subject: R-6 Small Infill Design Review – 31 Fore Street

Written by: Caitlin Cameron, Urban Designer

Date of Review: Friday, March 11, 2016

A design review according to the *City of Portland Design Manual* Standards was performed for the proposed new construction of a multi-family dwelling at 31 Fore Street. The review was performed by Caitlin Cameron, Urban Designer, Jean Fraser, Planner, and Shukria Wiar, Planner, all within the Planning Division of the Department of Planning & Urban Development. The project was reviewed against the *R-6 Small Infill Development Design Principles & Standards* (Appendix 7 of the Design Manual).

Design Review Criteria:

The project was reviewed with the Alternative Design Review which has the following criteria:

- A. Proposed design is consistent with all of the Principle Statements
- B. The majority of the Standards within each Principle are met
- C. The guiding principle for new construction under the alternative design review is to be compatible with the surrounding buildings in a two-block radius in terms of size, scale, materials, and siting, as well as the general character of the established neighborhood, thus Standards A-1 through A-3 shall be met.
- D. The design plan is prepared by an architect registered in the State of Maine.

Design Review Comments (*red text denotes principles or standards that are not met*):

Principle A Overall Context –Met – see below.

- *A-1 Scale and Form:* The scale the project is larger than most buildings on this small street, but the height is three stories and does not overshadow the neighboring 2.5 or 3 story residential buildings. The form is defined by rectilinear masses in keeping with typical multifamily buildings in the neighborhood, the roof line is flat with expressed cornice lines. On Waterville Street, the building length is mitigated by breaking it into two masses.
- *A-2 Composition of Principal Facades:* The building overall takes its cues from the surrounding forms, materials, and façade composition but combines them in a contemporary way. The composition of the Fore Street façade is generally well balanced and provides much visual interest. As noted above, the overall composition of the facades meets the standard in terms of rhythm, size, orientation, and proportion of window and door openings except for the garage level which is lacking articulation.
- *A-3 Relationship to the Street:* The building placement is consistent with the spacing of the residential fabric on Fore and Waterville Streets. The ground floor is raised

consistent with residential development patterns. The street wall is maintained except right at the corner where the building is slightly setback but this pattern is consistent with the previous residential building on-site.

Principle B Massing – Met – The roof lines and building forms are a contemporary version of the traditional building character of the neighborhood; all other aspects of the building reflect the principle and the majority of the Standards are met by the proposed design.

- *B-1 Massing*: The proposed mass is wider on the street than the typical building context but the composition of the façade, the front yard setback, and the L-shaped massing mitigate the scale at the corner. The building placement and massing is similar to the existing residential building on-site.
- *B-2 Roof Forms*: The proposed roof form is flat – most multi-family buildings in the context have a flat roof with an overhang.
- *B-3 Main Roofs and Subsidiary Roofs*: There is a clear main roof form.
- *B-4 Roof Pitch*: The roof is flat which is found in the context.
- *B-5 Façade Articulation*: The project employs a canopy at the entry (but not at the façade) and balconies.
- *B-6 Garages*: The garage door is on the side façade, standard does not apply.

Principle C Orientation to the Street – Met– The project appropriately reflects the private/public relationship of residential buildings in this neighborhood except for the position and visibility of the main entrance.

- **C-1 Entrances**: It is not clear which of the two entries is considered the main entry – indicate which entry will be the main entry and then make that entry comply with the standards. *Emphasize and orient the main entrance to the street. The main entrance of the structure shall either face the street . . . or be located on the side and be accessed by a covered porch that extends to the front of the building, at the primary street frontage.*
- *C-2 Visual Privacy*: Not applicable
- *C-3 Transition Spaces*: The project uses a side entry, canopy, and a vestibule for transition space.

Principle D Proportion and Scale – Met – The proportion and scale of the building overall are harmonious and human-scaled.

- *D-1 Windows*: The majority of windows are rectangular with a vertical proportion.
- *D-2 Fenestration*: The project appears to meet the 12% fenestration requirement and appropriately scaled to the massing of the building.
- **D-3 Porches**: The balconies appear to meet the standard (though dimensions are not provided in the drawing). *If the side entry is to be considered the main entry, then the porch must be designed to meet the standard C-1 above as well as the dimensional standards of D-3 (minimum area of 48 square feet, at least 6 feet deep).*

Principle E Balance – Met – The building façade composition creates a sense of balance with good use of overall and local symmetry and articulation of façade materials.

- *E-1 Window and Door Height*: The majority of window and door head heights align along a common horizontal datum.
- *E-2 Window and Door Alignment*: The majority of windows shall stack so that centerlines of windows are in vertical alignment.

- *E-3 Symmetricality:* Primary window compositions are arranged symmetrically around discernable vertical axes.

Principle F Articulation – Met – Based on the information given, the project employs visually interesting and well composed facades. Improvement could be made at the garage level.

- *F-1 Articulation:* The trim and window details and cornices create shadow lines. The shingle material and panel seams will also provide texture and visual interest. Balconies facing the streets also provide articulation with changes in plane and railing details. Windows were added to the garage level.
- *F-2 Window Types:* Two window types are used, are of the same “family,” and have consistent detailing.
- *F-3 Visual Cohesion:* The visual cohesion of the façade is good.
- *F-4 Delineation between Floors:* The windows, balconies, and material changes delineate the floors.
- ***F-5 Porches, etc.:*** There is no issue with obscuring architectural features – **if the side entry is the main entry then the entry needs to become more of an architectural feature, especially to make it visible from the street.**
- ***F-6 Main Entries:*** **The main entry is not adequately emphasized. A side entry requires indication at the street – improve the visibility of this main entrance with elements such as an extended canopy or porch toward the sidewalk. If the Waterville Street entry is to be considered the main entry, then additional emphasis should be created whether with a canopy, lighting, building signage or other method.**
- *F-7 Articulation Elements:* The rake of the roof meets the 6” requirement; trim is provided at the windows; the panels and corner trim boards add texture to the façade; balconies provide planer offsets; the cornice is pronounced.

Principle G Materials – Met – The material choices reference traditional building materials.

- *G-1 Materials:* The residential context is predominantly clapboards with occasional shingle or brick. The main mass uses shingle and composite trim in reference to this context. Masonry is used at the base of the building.
- *G-2 Material and Façade Design:* The materials for the upper residential floors are appropriately placed. The basement level uses a masonry material, appropriate for the base of the building.
- *G-3 Chimneys:* Not applicable.
- *G-4 Window Types:* Two window types are used.
- *G-5 Patios and Plazas:* Not applicable.



Jean Fraser <jf@portlandmaine.gov>

31 Fore Street - Final Traffic Comments

1 message

Tom Errico <thomas.errico@tylin.com>

Wed, Mar 16, 2016 at 4:17 PM

To: Jean Fraser <JF@portlandmaine.gov>

Cc: David Margolis-Pineo <DMP@portlandmaine.gov>, Katherine Earley <KAS@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>, Jeff Tarling <JST@portlandmaine.gov>

Jean – The following represents a status update of my preliminary review and represents my final comments.

- The proposed project does not meet City standards as it relates to corner clearance. City standards require 35 feet of clearance, and the project will be providing approximately 31 feet of clearance. Given that the project is providing a driveway on the lower volume street (not on Fore Street), providing increased separation with a nearby driveway, and site design factors, I find the driveway location to be acceptable and I support a waiver from City standards.

Status: I continue to support a waiver given site conditions.

- The aisle width for the parking lot is slightly wider than City standards. I support a waiver from City standards.

Status: I have no further comment.

- The applicant shall provide a construction management plan for review and approval.

Status: Additional detail on the construction plan is required, particularly as it relates to potential sidewalk closures and contractor parking. I suggest that this be a condition of approval with a plan being submitted for review and approval prior to issuance of any City permits.

- On-street parking regulations appear to require changes with the project and will require City Council action. This comment is intended to notify the applicant of this requirement and will need to support City staff in preparation of the City Council packet.

Status: I have no further comment.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE

Senior Associate

Traffic Engineering Director

TYLININTERNATIONAL T.Y. Lin International

12 Northbrook Drive

Falmouth, ME 04105

[207.781.4721](tel:207.781.4721) (main)

[207.347.4354](tel:207.347.4354) (direct)

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"One Vision, One Company"

Please consider the environment before printing.



Jean Fraser <jf@portlandmaine.gov>

Fore Street

1 message

Jeff Tarling <jst@portlandmaine.gov>
To: Jean Fraser <jf@portlandmaine.gov>

Wed, Mar 16, 2016 at 4:54 PM

Jean -

I have inspected the Sweetgum tree on Waterville Street. In review of the proposed plans for the project, given the building location and tree crown width, tree impact would be severe due to construction site work in both the root zone and the crown due to the proposed building wall which is much closer than existing.

The existing Honeylocust on Fore Street which is 15' east or uphill from the fire hydrant is in good condition and will require 'tree protection' during construction. This should include trunk protection and orange construction fencing around the tree rootzone area. (Condition) The next uphill tree is about 25 feet east of the existing tree and no other space along the Fore Street frontage is open for tree planting.

Landscape Plan - I couldn't find the plan on E Plan !

There maybe room to include a smaller ornamental tree near the Waterville Street edge, recommending a tree that will provide basic greening and not compete with view corridor concerns. This could be a Magnolia, Dogwood or Sourwood tree for example.

Thanks

Jeff

--

Jeff Tarling
Portland Public Services – City Arborist
55 Portland Street
Portland, ME. 04101
(207) 874.8820
jst@portlandmaine.gov



Jean Fraser <jf@portlandmaine.gov>

31 Fore St - Final Review Comments

1 message

David Margolis-Pineo <dmp@portlandmaine.gov> Wed, Mar 16, 2016 at 3:58 PM
To: Jean Fraser <jf@portlandmaine.gov>, Barbara Barhydt <bab@portlandmaine.gov>

March 16, 2016

Memo To: Jean Fraser

Barbara Barhydt

From: David Margolis-Pineo

Re: Final Review Comments for 31 Fore St. – Proposed Four Unit Building

1. Add State Plane Coordinates for the property corners and three foot offset monument to be set.

Done

2. Show the monument to be set on the Site Plan in addition to the Subdivision Plat.

Done

3. The proposed 12'-4" wide driveway on Waterville St. has an approximate 31' separation from the street corner as measured from the center of the drive to the street right of way (corner) of Fore St. Code requires 35'. Please try to make up the additional four feet by reducing the drive cut to 12', reduce the aisle width from 25'-8" to 24' and incorporate compact parking spaces (8' X 15') in an innovative manner.

The applicant is request an approximate 3'-9" waiver of the required 35' driveway setback from the Fore St intersection. This Department is supportive of that waiver request.

4. **The recording Plat is not stamped by a profession surveyor as required. Please submit stamped Plat.**

5. Assure that a note is on the plan set stating: “All work within the street right of way shall meet City of Portland Technical Standards.”

This Department has no further comments.

--

David Margolis-Pineo
Deputy City Engineer
Department of Public Services
55 Portland St.
Portland, ME 04101
Office 207-874-8850
Fax 207-874-8852
Cell 207-400-6695
dmp@portlandmaine.gov

MEMORANDUM



TO: Jean Fraser, Planner
FROM: David Senus, PE
DATE: March 17, 2016
RE: 31 Fore Street, Final Level III Site Plan Application & Response to Comments

Woodard & Curran has reviewed the response to comments and final Level III Site Plan Application submittal for the proposed 4-unit condominium development at 31 Fore Street in Portland, Maine. The project involves the demolition of an existing house structure and the construction of a 4-unit condominium building with ground level parking below the units.

Documents Reviewed by Woodard & Curran

- Cover Letter with additional appended materials for Final Level III Site Plan Application, dated March 1, 2016, prepared by Acorn Engineering, Inc. for Peninsula Property Development, LLC.
- Response to comments letter dated March 1, 2016, prepared by Acorn Engineering, Inc. for Peninsula Property Development, LLC.
- Engineering Plans, Sheets C-1, C-2, EX, C-10, L1, C-20, C-30, C-40, C41, C-42, C-43, C-44, REV dated March 1, 2016 & March 7, 2016, prepared by Acorn Engineering, Inc. for Peninsula Property Development, LLC.

Comments

1. The sewer back water valve is shown within the City Right-of-Way, which is not standard practice for the City of Portland. The location of this valve will need to be reviewed by the Department of Public Works. The valve is located within the driveway of the proposed building; however the detail for the valve riser does not appear to be designed to receive vehicle loads.
2. All other review comments from the Woodard & Curran memorandum dated January 25, 2016 have been adequately addressed.



PLANNING BOARD REPORT PORTLAND, MAINE

4-unit Condominium Development
31 Fore Street

Level III Site Plan and Subdivision Review
Peninsula Property Development, Applicant

Submitted to: Portland Planning Board Date: March 18, 2016 Public Hearing Date: March 22, 2016	Prepared by: Jean Fraser, Planner CBL: 016 J026001 Project #: 2016-005
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I. INTRODUCTION

Bob and Carrie LeBlanc are requesting the Planning Board consider a final Subdivision and Site Plan application for a new four-unit residential building at 31 Fore Street, at the corner of Fore Street and Waterville Street in the R-6 zone. The project was considered at a Planning Board Workshop on February 9, 2016.

The proposals comprise 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 proposal includes a mix of 1 one-bedroom, 1 two-bedroom, and 2 three-bedroom units, accessed by one set of stairs and an elevator and with entrances at both the lower (garage) level and the Fore Street (first floor) level.

A total of 115 notices were sent to property owners within 500 feet of the site and interested parties, and a legal ad was published in the *Portland Press Herald* on March 14 and 15, 2016. The project is not required to hold a Neighborhood Meeting.

Applicant: Bob and Carrie LeBlanc, Peninsula Property Development
Consultants: Will Savage, Acorn Engineering; Jason Pica, Port City Architecture; Owen Haskell, Surveyor; Tom Jewell, Attorney



Required Reviews and Waivers:

<i>Review</i>	<i>Applicable Standards</i>
Subdivision: Construction of new building with 4 residential dwelling units	<i>Section 14-497</i> for the division into 4 residential units.
Site Plan: Multifamily development	<i>Section 14-526</i> for the proposed multifamily residential development.

Waiver Requests to Planning Board	Applicable Standards
<i>Distance of driveway from corner:</i> The driveway is located 31.26 feet from the corner (Plan P4 and Att H) and a waiver is requested due to architectural constraints.	Technical Standard 1.7.1.7 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”. The Traffic Engineering and Dept of Public Works reviewers support a waiver of 3.74 feet based on an understanding that the driveway location is constrained by the architectural requirements (Atts 5 & 6).
<i>Parking Drive Aisle:</i> Waiver required for parking drive aisle that is approximately 25.75 ft wide to facilitate maneuvering within the garage (Att H).	Technical Standard 1.14 <i>Parking Lot and Parking Space Design</i> require a drive aisle of 24 feet width for 90 degree parking. The Traffic Engineering Reviewer supports this waiver (Att 6).
<i>Street Trees:</i> Four street trees are required and there is only room for three in the ROW.	Site Plan Standard and waiver (<i>Section 14-526(b)2.b(iii)</i>), requires one street tree per unit. The City Arborist supports the applicant planting a 4 th small street tree just within the applicant’s site on Waterville Street frontage (Att 7)

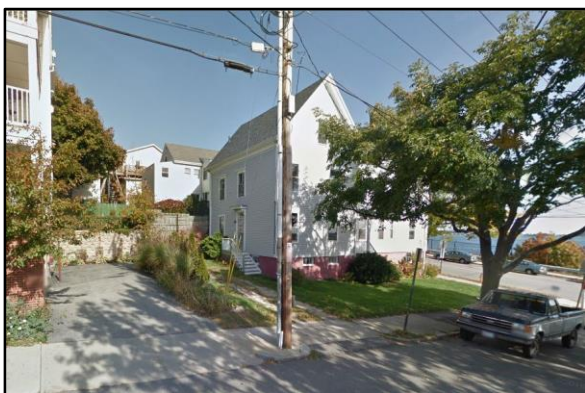
II. PROJECT DATA

SUBJECT	DATA		
Existing Zoning	R-6		
Existing Use	3 unit residential building		
Proposed Use	Residential (4 condominium units)		
Residential mix	2 three BR; 1 two BR; 1 one BR		
Parcel Size	4,068 sq ft		
	<i>Existing</i>	<i>Proposed</i>	<i>Net Change</i>
Impervious Surface Area	2070 sq ft	2942 sq ft	872 sq ft
Building Footprint	1590 sq ft	2457 sq ft	867 sq ft
Building Floor Area	3120 sq ft	7249 sq ft	4129 sq ft
Parking Spaces	2	6	4
Bicycle Parking Spaces	0	2 (inside) and 2 (outside in ROW)	2 (inside) and 2 (outside in ROW)
Estimated Cost of Project	\$2 million		

III. EXISTING CONDITIONS

The site totals 4180 sq ft and slopes across two planes, with an approximate change in grade of 5 feet along the uphill side boundary and 9 feet between the highest (back east corner) and lowest (corner Fore and Waterville) points. The site is occupied by an existing 3 story with basement residential building of 1590 sq ft footprint dating from the 1870s.

The site currently has an open aspect across Fore Street over the eastern end of 58 Fore Street (Portland Company). The area around the existing house is mostly lawn with shrubs along both boundaries; there is one street tree on Fore Street and one on Waterville Street, as can be seen in the photographs below.



from Waterville Street



from corner of Waterville and Fore Street

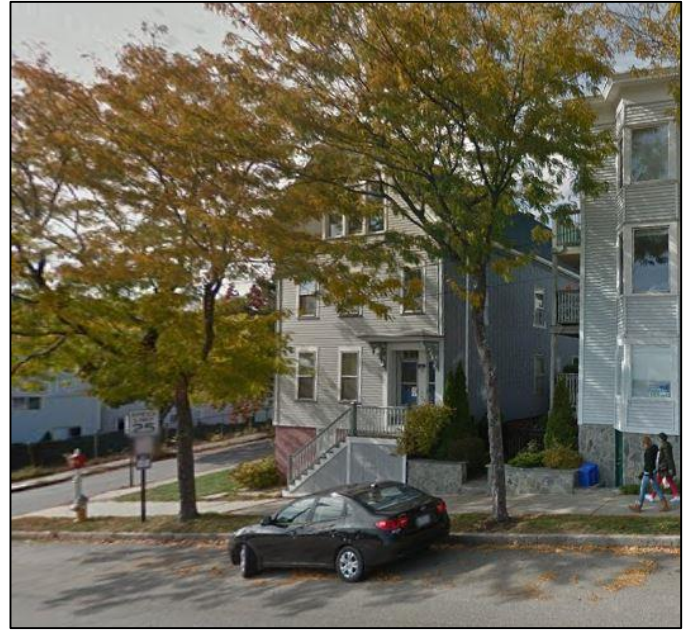
To the north on Waterville there is a relatively new (built 2005) residential building of 4 stories over a parking garage comprising 4 condo units.

Abutting the site to the east on Fore Street is a 3 story 3-unit condominium dating from the 1980s. This abutting building is currently 15 feet from the side of the existing building that is proposed to be demolished, separated by low planting.

Both of the abutting condo buildings have decks at all living levels that overlook the subject site.

To the west are the Munjoy South Townhouse apartments which are accessed from Fore Street.

The sidewalks along the frontage are concrete and in reasonable condition except where the existing large street tree has caused buckling. Brick is the specified sidewalk material for this area.

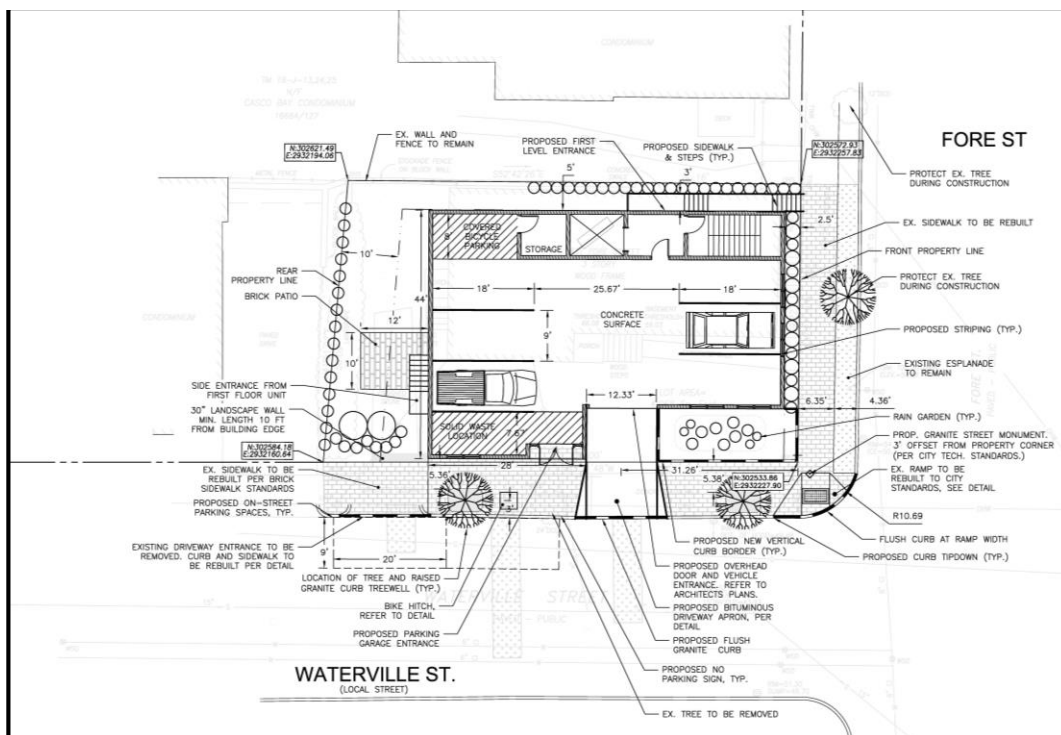


From Fore Street looking west

IV. PROPOSED DEVELOPMENT

The proposals comprise 4 residential condo units, 2 on the first floor and 1 each (3-bedroom) on the floors above (see site plan, elevations and floor plans in Plans P4., P9., and P10.). The ground floor (see plan below) is partially below ground and provides 6 parking spaces, with stair and elevator access to the floors above. The height of the building is just under 40.5 feet and there is a 5 foot stepback at 35 feet at the rear side, as required to meet the zoning dimensional requirements.

The footprint of the proposed building is about 870 sq ft larger than the existing building; it is approximately 3 feet closer to the abutting property on Waterville Street, it has been moved approximately 3 feet away from the side (uphill) property line.



Final Site Plan (Plan P4)

The building is proposed to have two entrances: one from Fore Street up steps and along the uphill side into a side door and lobby; and one from Waterville Street into a door next to the garage door. The design of these entrances has been revised so they are both large doors with a design treatment.

The entrance at the lowest (ground) level from Waterville Street has been identified by the applicant as the ADA accessible route, as it does not involve steps and leads to the elevator at the garage level.

Stormwater is routed into a raingarden where it is retained and treated before entering the City's system.

There are three small decks at the southwest corner of the building, plus a small at-grade patio accessed via stairs from the first floor unit that does not have a deck. Landscape Plan (Plan P8) illustrates the proposed landscape improvements, including boundary planting, reconstruction of the sidewalk and existing tipdown in brick, and replacement of the existing street tree with 2 new street trees.

The proposed materials are primarily Nichiha Fiber Cement Shakes, Azak Trim on the upper levels, and masonry with cornerstone veneer stone on the lowest (garage) level (shown in elevations- Plan P10 and below).



V. PUBLIC COMMENT AND WORKSHOP DISCUSSION

The Planning Division received three public comments. PC1 is from Ms Preisser, a condo owner next door and the comments were made prior to the PB Workshop in February; no further comment has been received. The other comments are from Ms. Casale, a neighbor in Waterville Street, who suggests that the existing street tree in Waterville Street should be retained by relocating the driveway. The issues related to this street tree are discussed below in section **XI 2**.

At the PB Workshop the Planning Board generally supported the project, and requested:

- Further explanation as to why the existing street tree on Waterville Street had to be removed;
- Clarification as to where the mechanical equipment would be located;
- That vinyl cladding products be avoided with some suggestions for other types of shakes;
- That the entrance on Fore Street be more prominent.

VI. RIGHT, TITLE, & INTEREST

The applicant has provided deeds as evidence of right, title, and interest (Attachment B).

VII. FINANCIAL & TECHNICAL CAPACITY

The applicant has submitted a letter from Gorham Savings Bank confirming financial capacity of the applicant (Att. C).

VIII. ZONING ASSESSMENT

The site is within the R-6 zone which covers most of the surrounding area except along the waterfront which is B6.

The proposals have been revised to include the stepback at 35 feet and now meet all of the dimensional standards of the R-6 zone. The stepback is required under the R-6 zoning where a building is located within 10 feet of the side boundary and 15 feet of the rear boundary.

The proposed building requires a 5 foot stepback on the side (uphill) because it is 5 feet from the property boundary. The applicant has incorporated this stepback as shown in the elevations/sections (Plan P10) and on the floor plans (Plan P9).

At the PB Workshop the applicant had shown a second set of stairs within the stepback area because proposals at that time required a second set of stairs under the IBC Building Code. The City's ordinance allows stairs and elevator towers to be above the required height in section 14-430, which states:

Div 25. Space and Bulk Regulations and Exceptions):
14-430 (a) Roof structure. Roof structures for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, skylights, steeples, roof signs, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitation herein prescribed for buildings.

The City's Zoning Administrator has confirmed that the interpretation of this ordinance provision would have allowed the second set of stairs to be located within the stepback (Attachment 9).

The applicant modified the surrounding grading (adding a retaining wall at the back along Waterville Street) which amended the grades and associated calculations (Attachment N, – grades 6 feet from building). These revised calculations confirmed that under IBC requirements the building did not need to have the second set of stairs; this is confirmed in an e-mail from the Building Code Inspector Jeanie Bourke (Attachment 8).

Division 20 of the land use ordinance provides an exception for the off-street parking requirement for the first three units in the R-6 zone and a 1:1 requirement thereafter. The proposal for 4 units would require one parking space on site, and this is met by the provision of the 6 parking spaces in the garage

IX. SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527) and SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS (Section 14-496)

The applicant has submitted a draft subdivision plat (Plan P3), which is generally acceptable. The standard condition requiring the submission of a final (stamped) plat for final review has been included in the motions for the Board to consider.

The applicant has not provided drafts of the condominium documents and the submission for review and approval is included as a potential condition of approval.



X. SUBDIVISION REVIEW (14-497(a). Review Criteria)

The proposed development has been reviewed by staff for conformance with the relevant review standards of the City of Portland's subdivision ordinance. Staff comments are below.

1. Water, Air Pollution

The portion of the site to be developed is currently occupied by a lawn and surface parking. The proposals add 872 sq ft of additional impervious surface and the applicant proposes to detain and treat stormwater runoff with a raingarden located at the lowest point of the site at the corner of Waterville Street and Fore Street. David Senus, the city's consulting civil engineer, has reviewed this system and indicated his approval (Attachment 3.) No detrimental water or air quality impacts are anticipated.

2 & 3. Adequacy of Water Supply

The applicant has received a capacity letter from the Portland Water District (Attachment G).

4. Soil Erosion

No unreasonable soil erosion or reduction in the capacity of the land to hold water is anticipated.

5. Impacts on Existing or Proposed Highways and Public Roads

The proposal does not raise any concerns regarding the impacts to the existing street network (Attachment 6.).

6. Sanitary Sewer/Stormwater Disposal

The applicant has submitted a Final Stormwater Report and an Erosion Control Report in Attachments I and J. The proposals for the stormwater raingarden have been revised to address the Peer Engineer's earlier comments and the only issue is the location of the sewer back water valve which is proposed in the ROW (Attachment 3). A potential condition of approval addresses this minor concern.

The applicant has received the wastewater capacity letter (Attachment G).

7. Solid Waste

The proposed development includes an internal solid waste area as noted on the Site Plan (Plan P4.) and the owners will be responsible for bringing solid waste and recyclable to the curb side for collection (Attachment F).

8. Scenic Beauty

The proposals involve the removal of a mature Sweetgum street tree on Waterville Street and replacement with two new street trees. The City Arborist supports this proposal and neighbors have mixed views on its value. This is discussed in greater detail in Section **XI 2.** The utilities are proposed to be underground in compliance with subdivision requirements (Plan P5).

9. Comprehensive Plan

The plans meet multiple goals from the city's housing plan, including "encourag[ing] higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation."

10. Financial and Technical Capacity

As noted above, the applicant has submitted a letter from Gorham Savings Bank attesting to the applicant's financial capacity (Attachment C).

11. Wetland/Water Body Impacts

There are no anticipated impacts to wetlands or water bodies.

12. Groundwater Impacts

There are no anticipated impacts to groundwater supplies.

13. Flood-Prone Area

Per the city's existing flood maps, the site is not located in a flood zone.

XI. SITE PLAN REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the City of Portland's site plan ordinance. Staff comments are below.

1. Transportation Standards

a. Impact on Surrounding Street Systems

This small residential development is not a concern in terms of traffic except during construction, and the Traffic Engineering reviewer has requested a construction management plan for review and approval (Attachment 6). It should also be noted that the relocation of the driveway will necessitate changes in the parking regulations along the Waterville Street frontage, and the applicant is advised that this will require their support in the preparation of the City Council report materials.

b. Access and Circulation

The proposals include a relocated driveway which improves the separation from the adjacent Waterville Street property driveway but brings it to 31.26 feet from the corner of Fore/Waterville, which does not meet the 35 foot Technical Standard for corner clearance. The applicant has requested a waiver due to architectural constraints (Attachment H) which has been supported by staff (Attachments 5 & 6). The existing driveway is proposed to be closed with a new sidewalk constructed across it (Plan P4).

c. Pedestrian Circulation and ADA

The applicant has indicated that the garage will be the accessible route to meet ADA requirements, and has pointed out in Attachment P that the garage will be daylit and welcoming and the access will not be "inferior". This access and door have been redesigned to be as prominent as the entrance on Fore Street, which has raised a question regarding which is the main entrance and how the main entrance will be distinguished (see Att 4).

d. Public Transit Access

The proposed development is not located along a public transit route. As such, no provisions for transit access are required.

e. Parking

- Vehicle: The ordinance requirement for vehicle parking is one off-street space per unit, and in the R-6 zone parking for the first 3 units is not required. Six are being provided, which exceed the zoning requirements.
- Bicycle: The ordinance requirement is 2 spaces, which has been met by the proposal for two bike racks in the ROW near the driveway on Waterville street, and two within the garage. The rack in the ROW is acceptable subject to it meeting the City's Technical Standards and this is included in the proposed conditions of approval.

f. Transportation Demand Management

A transportation demand management plan is not required.

2. Environmental Quality Standards

a. Preservation of Significant Natural Features

There are no known significant natural features on the site.

b. Landscaping and Landscape Preservation

The site is largely grassed with some small plantings along the boundary with the abutting condo on Waterville Street, and dense shrub and ornamental planting on the boundary shared with the abutter on Fore Street (uphill). There is a large existing street tree in the esplanade along the Waterville frontage and a smaller but mature street tree in Fore Street.

The applicant has submitted a Landscape Plan (Plan P8) which has added boundary treatment and details of the raingarden. The proposals remove the Sweetgum street tree in Waterville Street and replace it with two new street trees placed to accommodate the relocated driveway (Plan P4 and P8).

A neighbor, Ms Casale, has sent photographs of the tree to be removed (PC3) and the applicant has submitted photographs as part of the explanation as to why it needs to be removed (Attachment H). The City Arborist has visited the site and further considered the issue and concludes (Attachment 7):

I have inspected the Sweetgum tree on Waterville Street. In review of the proposed plans for the project, given the building location and tree crown width, tree impact would be severe due to construction site work in both the root zone and the crown due to the proposed building wall which is much closer than existing.

The existing Honeylocust on Fore Street which is 15' east or uphill from the fire hydrant is in good condition and will require 'tree protection' during construction. This should include trunk protection and orange construction fencing around the tree rootzone area. (Condition) The next uphill tree is about 25 feet east of the existing tree and no other space along the Fore Street frontage is open for tree planting.

There maybe room to include a smaller ornamental tree near the Waterville Street edge, recommending a tree that will provide basic greening and not compete with view corridor concerns. This could be a Magnolia, Dogwood or Sourwood tree for example. (Attachment 7)

Staff recommend that the applicant's proposals to replace the existing street tree in Waterville Street are acceptable as shown on the submitted plans, and have suggested a condition of approval to protect the existing street tree on Fore Street as outlined by the City Arborist above.

- c. *Water Quality/Storm Water Management/Erosion Control*
See above under Section VI B *Subdivision Review*.

3. Public Infrastructure and Community Safety Standards

- a. *Consistency with Related Master Plans*
As noted above, the project is generally deemed consistent with related master plans.
- b. *Public Safety and Fire Prevention*
Keith Gautreau, of the Fire Prevention Bureau, does not have any concerns and has noted that the second set of stairs is not required from a Fire Prevention Code viewpoint. (Att. 2).
- c. *Availability and Capacity of Public Utilities*
See Attachment G and Plan P5; all utilities have been addressed adequately.

4. Site Design Standards

- a. *Massing, Ventilation, and Wind Impact*
There are no anticipated impacts to ventilation or wind patterns.
- b. *Shadows*
There are no anticipated impacts to publicly accessible open spaces.
- c. *Snow and Ice Loading*
Three balconies are located at the back edge of the Fore Street sidewalk and there is the potential for ice and snow to fall onto the public sidewalk. These balconies are on the corner and their other side is over the raingarden, so the design should ensure that drainage and snow overflow from the balconies is directed to the raingarden side. A suggested condition of approval addresses this concern.
- d. *View Corridors*
Waterville Street is not a protected view corridor.
- e. *Historic Resources*
There are no historic districts or landmarks within 100 feet.
- f. *Exterior Lighting*
The applicant has indicated in Attachment D that lighting is proposed to light the steps and side entrance from Fore Street. Details of the light fixtures and associated photometric information should be included in the revised designs for both entrances (as requested in relation to the design review below). A condition of approval has been suggested to require this information to ensure (given the proximity of neighbors on Fore Street) that the final proposals meet the standards and that there is no light trespass.

g. *Noise and Vibration*

The applicant has not submitted details of exterior heating, ventilation, and air conditioning equipment and staff suggest this should be the subject of a condition that allows for a final staff review. The Site Plan ordinance specifies that these should be at the interior of the site and away from abutting residential properties and also be screened from view from any public street and adjacent sites by structure walls, evergreen landscaping, fencing etc

h. *Signage and Wayfinding*

No signage or wayfinding is proposed at this time.

i. *Zoning-Related Design Standards*

1. R-6 Infill Development Design Principles and Standards

The applicant has submitted a narrative outlining how the proposed design addresses the R-6 design standards (Attachment L). Staff reviewed the applicant's final submitted plans and the final Design Review comments are in Attachment 4.

The applicant has addressed all of the previous design concerns except for the design of the entrances, where the comment is (Attachment 4):

***F-6 Main Entries:** The main entry is not adequately emphasized. A side entry requires indication at the street – improve the visibility of this main entrance with elements such as an extended canopy or porch toward the sidewalk. If the Waterville Street entry is to be considered the main entry, then additional emphasis should be created whether with a canopy, lighting, building signage or other method.*

The suggested condition of approval requests that the applicant confirm which entrance is the main entrance and revise this main entrance to meet the R6 Design standards as outlined in the Design Review comment.

2. Multi-family and Other Housing Types Design Standards

In addition, there are design standards that apply to all multifamily development including this proposal. These are more general standards that include design standards as well as several other standards as listed below with staff 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;***
- 2. 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: The proposals have been evaluated in the context of the R-6 Design Standards (above) which cover the design elements mentioned in standards 1 and 2 in greater detail (7 pages of specific standards). Please refer to the Design Review comments in Attachment 4.

- 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: Three of the 4 new units will have balconies and the fourth unit has direct access to a patio to the rear of the building.

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 and therefore is screened.

XII. STAFF RECOMMENDATION

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the planning board approve the proposed 4-unit condominium development at 31 Fore Street.

XIII. 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 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 **finds/does not find**, 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/does not waive** the *Technical Manual* standard (*Section 1.14*) to allow a 27.75 foot wide aisle in the parking garage; and

2. *Parking Drive Aisle*

The planning board **finds/does not find**, 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/does not waive** 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.

3. *Street Trees*

The planning board **finds/does not find** 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/does not waive** 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

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 2016005 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, 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. 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 March 22, 2016 for application 2016005 relevant to the site plan 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 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.

ATTACHMENTS:

Attachments to the Report

1. Planner Prelim comments
2. Fire Department final comments
3. Peer Engineer Review final comments
4. Design Review final comments 3.11.2016
5. DPW final comments 3.2.2016
6. Traffic Engineering comments
7. City Arborist comments
8. Building Code Reviewer
9. Zoning Administrator determination re exemptions to height limits

Public comments

- PC1 D Preisser 2.6.16
- PC2 M Casale 2.9.16
- PC3 M Casale March 2016

Applicant's Submittal

- A. Final Cover Letter and Final Application updated 3.1.16
- B. Right, Title and Interest
- C. Financial Capability letter
- D. Conformity with SP & Zoning Ordinance
- E. Fire Department checklist
- F. Solid Waste
- G. Utility Capacity letters 3.1.16
- H. Request for Waivers updated 3.1.16
- I. Final Stormwater Report 3.1.16
- J. Erosion Control Plan
- K. Construction Management Plan as updated 3.1.2016
- L. R-6 Narrative re R-6 Design Standards Jan 2016
- M. ADA Narrative and Info Jan 2016
- N. Average Grade analysis
- O. Comment response letter 3.1.2016

Plans

- P1. Cover Sheet, Notes and Survey (2 sheets)
- P2. Survey
- P3. Draft Recording Plat
- P4. Site Plan
- P5. Utility Layout plan
- P6. Grading, Drainage and Erosion Control Plan
- P7. Site, Utility and Drainage Details (5 sheets)
- P8. Landscape Plan
- P9. Floor Plans
- P10. Elevations and sections (Amended elevation added 3.18.2016)
- P11. Renderings

Extract from City of Portland Ordinance March 2016

DIVISION 29. HOUSING PRESERVATION AND REPLACEMENT

Sec. 14-483. Housing preservation and replacement.

(a) *Purpose.* The purpose of these regulations is:

1. To promote and facilitate an adequate supply of housing, particularly affordable housing for all economic groups;
2. To limit the net loss of housing units in the city;
3. To preserve housing in zones where housing is permitted for in the city for all residents in order to promote the health, safety and welfare of its citizens.

(b) *Definitions.*

Dwelling unit. A dwelling unit is one (1) or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit. For purposes of this section only it also includes single family, two-family and multi-family dwellings and any dwelling units in those dwellings, or dwelling units, or rooms that people rent or sleep in within lodging houses, dormitories, shelters and sheltered care group homes.

Loss of dwelling unit for purposes of this section means the elimination or conversion to nonresidential use of a dwelling unit and dwelling units that remain vacant for three years or more or are lost due to demolition unless the vacancy or demolition results from accidents outside of the owner's control, fire, natural disasters, or acts of war.

Original site means the location where the demolition or conversion to non-residential use of dwelling units will take place.

(c) *Applicability.* Except as otherwise provided in this section, this section shall apply to the loss of three or more dwelling units in a five year period, provided that such dwelling units were a legally registered residential use as of July 1, 2002.

Except as otherwise provided in this section, this section shall also apply to proposals that (a) result in the loss of fewer than three (3) dwelling units which were legally registered residential use as of July 1, 2002, and (b) creates surface parking.

Determination of number of the dwelling units within a structure or structures and the number of units lost will be based on records in the Department of Planning and Urban Development indicating the legal, registered use of the property since July 1, 2002 through the time of

application. The actual use of the property for purposes of applicability of this section may be rebutted by the owner by proof of documentary evidence including but not limited to photographs, letters, and sworn affidavits. The Planning Authority may conduct its own investigation of the actual use and shall determine the applicability of this section based on the totality of the evidence.

(d) *Exemptions.*

This section does not apply to:

1. Consolidation, elimination or reconfiguration of one (1) or more dwelling units within an existing structure, as long as all the resulting units remain as dwelling units after such consolidation, elimination or reconfiguration, except as provided by subsection 5 below. Conversion of a dwelling unit to a hotel or motel room shall not qualify for the exemption provided by the paragraph.

The amendments to paragraph (d)(1) approved by the City Council on June 6, 2011 shall have an effective date of April 25, 2011 but not apply to any final determination regarding the applicability of this section made by the Planning Authority prior to April 25, 2011.

2. Proposals that result in a number of units equal to or greater than the number of units lost as determined by the Planning Authority; or

3. Grandfathered dwelling units existing in zones which no longer permit residential uses.

4. Property which has been ordered demolished by the City, pursuant to 17 M.R.S.A. §2851, et seq., as amended, except where it is determined by the Building Authority that the deterioration was caused by neglect or lack of maintenance.

5. Subparagraph 1, above notwithstanding, the conversion to a non-residential use of any dwelling units located on the ground floor of a building within a business zone.

(e) *Site plan administrative authorization or approval required.* Notwithstanding any other provision of this section, a person who proposes to demolish or to convert to a nonresidential use three or more dwelling units in the City, in a zone where such use is otherwise permitted, must first obtain administrative authorization or site plan approval from the City's Planning Authority or Planning Board pursuant to Sec. 14-521, et. seq.

In addition the requirements of 14-521, et. seq., where this section

is applicable, the applicant must also submit a statement certifying the number of dwelling units to be demolished or converted to nonresidential use, as well as a description of the characteristics of each of those units.

(f) *Tenant Notification Requirements.* Prior to elimination as a result of demolition or conversion to non-residential use, the owner shall:

1. Provide the Planning Authority a list containing the name of each tenant currently residing in the dwelling units to be demolished or converted to non-residential use, as well as verification of compliance with tenant notice requirements of this section.
2. Deliver to each tenant who occupies such a dwelling unit a written notice to vacate the unit. The notice shall either be sent by certified mail, return receipt requested, or served in-hand. The notice will grant the tenant not less than ninety (90) days from the date of receipt of the notice to vacate the unit; and
3. File proof of service of the notice with the Planning Authority.

(g) *Housing Replacement Requirements.* In addition to the requirements of 14-521, et. seq, the Planning Authority shall require, as a condition of approval, that an owner shall replace any dwelling units that are demolished or converted to non residential use.

This section may be satisfied in any one of the following ways:

1. Construction of Units. The construction of housing units within a new structure or a new addition either on site or off-site;
2. Residential Conversion. The conversion of a nonresidential building to residential use; or

The applicant may use either of the two methods or a combination of the two to fulfill their replacement requirement.

(h) *Replacement Unit Requirement.* In addition to the foregoing, all replacement units built pursuant to sub-section (g) (1) or (2) above shall:

1. Be located within the same United States Census Block Group as the parcel from which the dwelling units are being removed or within 1,500 feet of the dwelling units being removed;
2. Not previously have been on the market as of the date of application;
3. Be situated within a development which has not been a candidate

for site plan approval as of the date of the application; and

4. Be comparable in size to the units replaced; for the purpose of this section, "comparable in size" means that the aggregate size of the replacement units will be no less than 80% of the size of the aggregate of the original units.

(i) *Contribution to the Housing Trust Fund.*

1. The applicant may meet the requirements of this section by depositing \$50,000 for each dwelling unit into the City's Housing Trust Fund in section 14-489.
2. Beginning on January 1, 2004 and annually thereafter, the amount of the contribution shall be adjusted by multiplying this amount originally deposited for each unit by a fraction, the denominator of which shall be the "Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W")," U.S. City Average, "All Items Index," as published by the United States Bureau of Labor Statistics ("the Index") for January 1, 2003 Year, and the numerator of which shall be the Index for the same month in each subsequent year. In the event that the Index is not then in existence, the parties shall use such equivalent price index as is published by any successor governmental agency then in existence; or, if none, then by such nongovernmental agency as may then be publishing an equivalent price index, in lieu of and adjusted to the Index. If the Index shall cease to use 1982-84 equals 100 as the basis of calculation, or if a substantial change is made in the terms or number of items contained in the Index, the Base Index shall be adjusted to conform to such change, using such computation thereof, if available, as shall be employed by the United States Department of Labor in computing same. Notwithstanding anything herein to the contrary, contributions made after January 1, 2004 shall not be less than the amount originally required to be deposited pursuant to sub-section (i)(1) for each rooming or dwelling unit.

(j) *Performance Guaranty/Letter of Credit.* Owners or affiliates must post a performance guaranty in the form of a letter of credit, or other security acceptable to the city attorney, in the amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Trust Fund if the applicant had chosen that option pursuant to sub-section g. Such a performance guaranty shall be valid for no more than three years, after which the full amount due shall be provided to the City's Housing Trust Fund if replacement units satisfying the conditions of this Division 29 do not have Certificates of Occupancy.

(k) *Partial waiver of replacement requirements.* Any owner who has applied for site plan review for elimination or conversion to non-

residential use of dwelling units may apply to the Zoning Board of Appeals for a partial waiver from the housing replacement requirements of this section. Such waiver may be a downward adjustment of up to fifty percent (50%) of the owner's housing replacement obligation if the owner establishes to the board's satisfaction that:

1. The proposed development is consistent with the comprehensive plan;
2. The proposed development provides significant value and benefit to the immediate and surrounding neighborhood, including, but not limited to, community enhancement, social benefits or job creation;
3. The applicant demonstrates with objective evidence that the imposition of the requirements of this section would impose such an economic burden upon the project relative to its scope that it renders the project impossible to develop; and
4. The requested relief does not constitute a grant of a special privilege inconsistent with the limitations upon similar properties.

The Zoning Board of Appeals must make positive findings on each of the four (4) criteria above in order for any such adjustment to be valid. An applicant aggrieved of a decision of the Zoning Board of Appeals may appeal a decision under this sub-section pursuant to Sec. 14-553 of the City Code.

(l) *Effect of Other City Ordinances.*

1. *Historic Preservation.* Nothing in this division shall permit the demolition or conversion to non-residential use, of dwelling units in residential property protected by the Historic Preservation Ordinance (Sections 14-601, et seq.), except as permitted by that ordinance.
2. *Conditional Zone.* A conditional zone may not be used to circumvent the application of this section. The terms of this section shall apply to any conditional zone which involves dwelling units affected by this section. Notwithstanding the foregoing, nothing herein shall be deemed to prevent the City and the applicant from agreeing to terms which exceed those imposed by this section by means of a conditional zone.

(m) *Appeals.* Any applicant aggrieved by a decision of the Planning Authority under this section may appeal to the Zoning Board of Appeals within 30 days of that decision.

(Ord. No. 27-02/03, 10-7-02; Ord. No. 280-09/10, 7-19-10; Ord. No. 241-10/11, 6-6-11; Order 133-15/16, 1-4-2016)