



PLANNING BOARD REPORT PORTLAND, MAINE

Seaport Lofts (Bay House Phase II)
101-121 Newbury Street and 40 Hancock Street
Level III Site Plan and Subdivision Review
2013-179
113 Newbury Street, LLC, Applicant

Submitted to: Portland Planning Board	Prepared by: Nell Donaldson, Planner
Public Hearing Date: September 24, 2013	Date: September 20, 2013
Planning Board Report Number: #42-13	CBLs: 20-D-13, 14, 15, 32

I. INTRODUCTION

113 Newbury Street, LLC requests a Level III site plan and subdivision review for a four-story housing development, recently coined the Seaport Lofts, at the corner of Newbury and Hancock Streets in the Eastern Waterfront. The proposed 60,000 SF development includes 39 residential units - seven townhomes and 32 flats - and 43 parking spaces. The proposal also includes sidewalk and landscaping improvements. The site is currently occupied by surface parking lots.

At a prior Planning Board workshop, held on August 13, 2013, the Board considered the preliminary plans for the project. At the workshop, concerns regarding design and neighborhood compatibility, effects on parking, and construction impacts were raised. This report outlines changes made to the preliminary plans in response to the Board workshop and notes outstanding comments.

A total of 133 notices were sent to property owners within 500 feet of the site and a legal ad ran on 9-16 and 9-17.

Applicant: Atlas Investment Group, LLC, Demetri Dasco

Consultants: Will Conway, Sebago Technics; David White, Architect

II. REQUIRED REVIEWS

Waiver Requests	Applicable Standards
Driveway width – to allow a 19 foot wide driveway on Newbury Street <i>Supported by consulting traffic engineer.</i>	<i>Technical Manual 1.7.2.3. Any site with a two-way driveway access to the street shall have a minimum width of 20 feet.</i>
Driveway spacing – to allow a driveway separation of app. 10 feet <i>Supported by consulting traffic engineer.</i>	<i>Technical Manual 1.7.2.7. Along local streets, minimum acceptable spacing between driveways on adjacent lots shall be 100-150 feet.</i>
Compact parking spaces – to allow 12 compact spaces (for 29% of the total) <i>Supported by consulting traffic engineer.</i>	<i>Technical Manual 1.14. Parking lots with greater than 10 spaces may be comprised of up to 20% compact spaces.</i>
Parking dimensions <i>Supported by consulting traffic engineer.</i>	<i>Technical Manual Figures I-27 to I-29.</i>
Street Trees – 39 trees required (1/unit), 10 street tree provided, contribution of \$5,800 required- <i>Supported by City Arborist and Planning</i>	<i>Site Plan Standard and waiver Section 14-526 (b) (iii)</i>
Review	Applicable Standards
Site Plan	<i>Section 14-526</i>
Subdivision	<i>Section 14-497</i>

III. PROJECT DATA

Existing Zoning	B-2b
Existing Use	Vacant lot/surface parking
Proposed Use	Residential
Proposed Development Program	32 flats, 7 townhouses
Parcel Size	29,927 SF

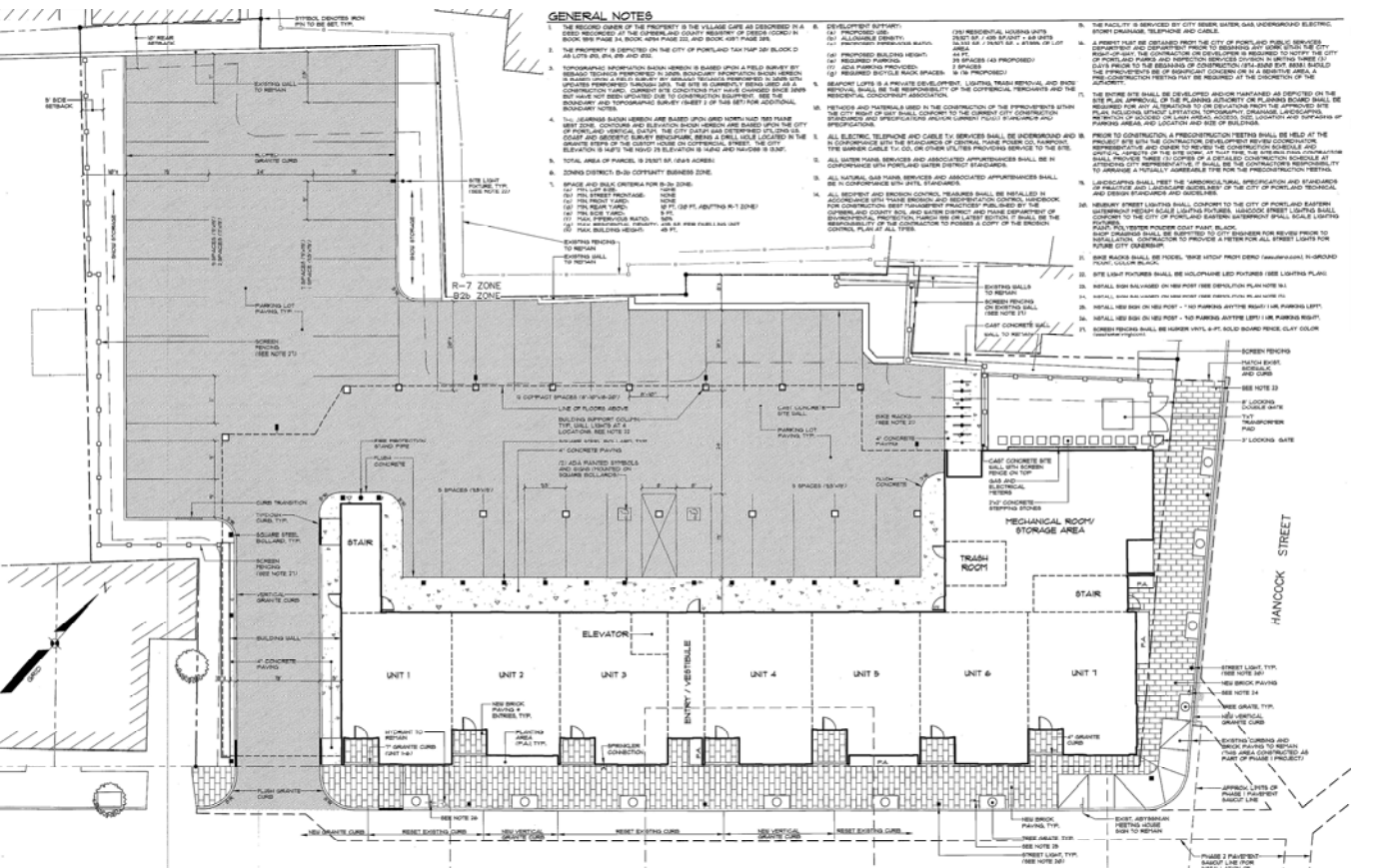
	<i>Existing</i>	<i>Proposed</i>	<i>Net Change</i>
Building Footprint	0 SF	17,132 SF	17,132 SF
Building Floor Area	0 SF	60,085 SF	60,085 SF
Impervious Surface Area	29,927 SF	26,332 SF	-3,595 SF
Parking Spaces (on site)	Approximately 60	43 (zoning req. 39)	-17
Bicycle Parking Spaces	0	16 (meets standard)	16
Estimated Cost of Project	\$12,000,000		

IV. BACKGROUND & EXISTING CONDITIONS

The site of the proposed Seaport Lofts lies at the northwest corner of Newbury and Hancock Streets in the city’s Eastern Waterfront. This neighborhood has hosted numerous developments in recent years, including the development team’s sister project, the Bay House Phase I, which is currently under construction directly across Newbury Street. The site lies in a B-2b zone, but many of the neighboring properties, including the Federal Street Townhomes to the north, the single- and multi-family homes up and across Hancock Street, and the property immediately to the west, are residential in nature. The Federal Street Townhomes, behind the site, are located in an R-7 zone. The Shipyard Brewery sits directly to the east. The Eastern Cemetery is visible from the Hancock Street frontage. The site is currently occupied by a surface parking lot.



Figures I: Bay House Phase I site and surrounding neighborhood



Figures 2, 3, & 4 (from top): Seaport Lofts site from Hancock & Newbury Streets; revised Newbury Street elevation; revised site plan

V. PROPOSED DEVELOPMENT

The Seaport Lofts, when built, would consist of 39 residential units on four floors. Seven of these units are designed as townhomes with front doors on Newbury Street. The remaining 32 units would be accessed by elevator or stair from a main entrance on Newbury Street or a rear entrance from the parking area at back. An additional door, clarified in the final proposal to serve egress purposes alone, is proposed on Hancock Street. The building is designed with a brick façade to delineate the townhomes and metal panel siding to delineate the flats.

Vehicular access would be provided via a driveway from Newbury Street, which would cut through the building's first floor. 43 parking spaces, an increase of one space since the time of preliminary review, are proposed at the rear of the site. Roughly $\frac{3}{4}$ of these are proposed in the open air, with the remainder under the second floor of the building.

New brick sidewalks, street trees, and street lights are proposed. The final plans also show landscaping on both the Newbury and Hancock Street frontages, enhanced landscaping around the transformer pad, and landscaping around the parking lot at the building's rear.

VI. PUBLIC COMMENT

The applicant held a neighborhood meeting on India Street, near the project site, on August 7, 2013. The sign-in and minutes from this meeting are included as *Attachment F*. Per the meeting minutes, neighbors were concerned regarding the shadow and view impacts of the building, construction impacts, and structural integrity of the existing retaining walls.

In addition to the comments from the public meeting, the Planning Division received several letters from property owners in the vicinity. These are included as *Attachments 1 and 2*. One of these letters concerned view and shadow impacts. The other raised issues regarding the loss of existing parking on site and the adequacy of parking proposed. This property owner suggested on-street parking restrictions for Bay House residents – through which such residents would be limited to a delineated on-street parking zone or denied on-street parking stickers altogether. As an alternative, she has suggested deeded parking to discourage on-street parking and ensure that off-street parking would be available to all Seaport Lofts residents.

VII. RIGHT, TITLE, & INTEREST

The applicant's final submittal includes a purchase and sale agreement as evidence of right, title, and interest. A deed description which demonstrates the seller's interest in the property has been reviewed.

At the time of preliminary review, a neighboring property owner raised questions regarding the rear property line as depicted on the original survey. A revised, stamped survey, showing revised property lines, has been provided with the final plans. It is the understanding of staff that the property line questions have been resolved.

VIII. FINANCIAL & TECHNICAL CAPACITY

The estimated cost of the development is \$12 million. In their preliminary application, the applicant submitted a letter from East Boston Savings Bank indicating their intent to consider project financing for Phase II of the Bay House project.

IX. ZONING ANALYSIS

In her preliminary review, Marge Schmuckal, zoning administrator, asked for confirmation that the project is meeting both the maximum impervious surface ratio and building height requirements of the B-2b zone. In the B-2b, the maximum impervious surface ratio is 90%. The applicant's final plans show a ratio of 87.9%, ostensibly meeting this requirement. Likewise, the maximum building height in the B-2b is 45 feet. The applicant's revised elevations show a height of 44.9 feet. Verification that the proposal is meeting lot coverage and building height requirements has yet to be confirmed by the zoning administrator.

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

The applicant has met all site plan submission requirements. However, a complete construction management plan

has yet to be approved. Thomas Errico, the city's consulting traffic engineer, writes,

The applicant has provided a construction management plan for the initial phase. The applicant should provide details on other phases of construction for review and approval and anticipated time durations for each phase. The City would like to gain a full understanding of construction impacts during the all periods of time. The City also suggests providing realistic information on street closures for preliminary approval purposes. The plans should illustrate all anticipated signage and pavement marking changes for each phase. For the Hancock Street sidewalk closure, I would suggest that the sidewalk be closed at Federal Street and pedestrians directed to the east side sidewalk at the intersection. I would note that for the sidewalk closure, all pedestrian detours will need to be ADA compliant. Lastly, approval of the plan by the Fire Department will be required (ensuring acceptable emergency access).

Update: The applicant has noted that detailed construction plans will be submitted prior to issuance of a building permit. I would note that the applicant should be informed that the construction management plan may require a host of temporary provisions including but not limited to signage, pavement markings, temporary sidewalks, temporary crosswalks, detour routes for vehicles and pedestrians, contractor parking requirements, and street circulation changes. It is my suggestion that as soon as a contractor is selected for the project coordination of the plan begin with the City.

XI. 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. The applicant has provided a draft subdivision plat. Prior to signing, the applicant will need to modify this plat to include all applicable waivers and conditions of approval as decided by the Planning Board. The applicant will also be required to provide condominium documents. As noted on the draft plat, a license agreement will also be required for the building's foundation and the applicant will be required to grant a pedestrian easement to the city for proposed sidewalk outside the public right-of-way. Conditions of approval pertaining to the above requirements are proposed for the Board's consideration.

Remaining staff comments on the subdivision are below.

1. Water, Air Pollution

The site is currently occupied by surface parking lots. A total of approximately 26,000 SF of impervious area is proposed, representing a net decrease in impervious surfaces of more than 3,000 SF. The majority of the post-development impervious surface is comprised of roof, which is expected to improve the quality of the water leaving the site. No detrimental water or air quality impacts are anticipated.

2 & 3. Adequacy of Water Supply

The applicant has provided a letter from the Portland Water District confirming the district's ability to serve the proposed project (*Attachment D*).

4. Soil Erosion

As noted above, the site is currently developed as a surface parking lot. The site is sloped such that the elevation changes by six feet from Newbury Street towards the back of the site. Retaining walls can be found on the northwestern property line, on the eastern property line, and interior to the site. Some of these will be rebuilt as a result of the project and may require building permits from the Inspection Division. No major impacts related to erosion are expected.

5. Impacts on Existing or Proposed Highways and Public Roads

The project has been reviewed by Mr. Errico (*Attachment 3*). Per the traffic impact assessment completed as part of the preliminary application, the proposed development is not expected to generate significant traffic volumes. The cumulative trip generation from both phases of the Bay House is not great enough to trigger a Traffic Movement Permit. Mr. Errico has indicated that, based on prior approvals in the area, contributions toward planned improvements at the intersection of India and Middle Streets, which is currently failing in operations, and to the

East End Traffic Monitoring Study are required. These contributions are discussed in more detail below.

6. Sanitary Sewer/Stormwater

The applicant has submitted a wastewater capacity letter from the Department of Public Services indicating adequate capacity to handle wastewater flows from the project (*Attachment D*).

As noted above, the proposed development will result in a net decrease in impervious surfaces on site. As proposed, all runoff from the site will enter into a subsurface detention system on site and, from there, run down Newbury Street to the separated stormwater system in Hancock Street. The plans have been reviewed by the David Senus, consulting civil engineer, and David Margolis-Pineo of the Department of Public Services. Their comments are enclosed as *Attachments 4 and 5*.

7. Solid Waste

The applicant has revised the plans to show a ‘trash room’ near the mechanical room at the building’s rear. The applicant states that “trash will be stored in bins and collected by a contracted waste hauler” from this location (*Attachment B*). The dumpster shown in the original site plans has been removed.

8. Scenic Beauty

This proposal is not deemed to have an adverse impact on the scenic beauty of the area. The final plans include ten street trees on Hancock and Newbury Streets. A required improvement of the Subdivision Ordinance is street trees and under the Site Plan standards (Section 14-526 b (iii)), one tree/unit is required. Thus, 39 total street trees should be supplied for this project. Ten street trees are proposed along Hancock and Newbury Streets. The waiver criteria states:

Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the planting of street trees in the front yard, within 10 feet of the property line. Existing preserved healthy trees that are six inches or more in caliper and are on the site within 10 feet of the property line may be counted towards this requirement. If planting street trees is neither feasible in the City right of way nor within the site, the applicant shall contribute to the Cot of Portland Tree Fund an amount proportionate to the cost of required street trees.

Due to site constraints, the staff recommends a contribution to the tree fund of \$5,800 be submitted to meet the standard and waiver criteria.

9. Comprehensive Plan

As noted in staff’s prior memo to the Board, the project is deemed compatible with Comprehensive Plan goals and policies, including the vision for the community’s future, which envisions an “adequate supply of quality housing for all,” “proximity of commercial uses near residences,” and “high-density areas on the peninsula.”

10. Financial and Technical Capacity

As noted above, the applicant has submitted a letter from East Boston Savings Bank indicating the intent to consider project financing.

11. Wetland Impacts

There are no anticipated impacts to wetlands.

12. Groundwater Impacts

There are no anticipated impacts to groundwater supplies.

13. Flood-Prone Area

The project is not located in a flood-prone area.

XII. 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. Outstanding staff comments are below.

1. Transportation Standards

a. Impact on Surrounding Street Systems

The applicant’s traffic impact assessment was reviewed and found acceptable by Mr. Errico. As noted in the prior Board memo, at the time of the original traffic impact study for both phases of Bay House in 2005, the intersection of India and Middle Streets was failing for the eastbound and westbound movements during the PM peak hour. Mr. Errico has noted that, as with prior projects in the area, contributions to the improvement of this intersection and to the East End Traffic Monitoring Study will be required. Mr. Errico writes,

Based upon the increase in traffic documented by the applicant, \$1200.00 shall be contributed towards improvements at the India Street/Middle Street intersection and \$1200.00 shall be contributed towards an East End Traffic Monitoring Study.

b. Access and Circulation

Mr. Margolis-Pineo has noted that the sidewalk, as designed, encroaches on private property. This will require a pedestrian easement. In addition, in the final plans, a portion of this sidewalk has not been included in the proposed pedestrian easement. He writes,

A portion of sidewalk on the Newbury side of the Newbury-Hancock intersection still requires to be identified for an easement.

Mr. Margolis-Pineo also notes,

Please indicate on the plans the intended sidewalk running and cross slopes at which the sidewalks will be installed.

The applicant continues to propose closing all existing curb cuts on the site and providing vehicular access to the site via a driveway at the west end of the Newbury Street frontage. This driveway would cut through the first floor of the building. In order to provide pedestrian access via a sidewalk adjacent to the driveway, the driveway is proposed at 19 feet, or slightly less than in the preliminary plans and less than the standard cited in the city’s Technical Manual (*Section 1.7.2.3*). Mr. Errico has previously expressed his support for this waiver.

As previously discussed, this proposed driveway is proximate to a curb cut for a residential property immediately abutting the site to the west. The applicant has provided a request for a waiver from the separation requirement for curb cuts from the city’s Technical Manual (*Section 1.7.2.7*) (*Attachment H*). Of this, Mr. Errico writes,

I support a waiver from the technical standards given the adjacent driveway serves only one vehicle and the location maximizes separation from the Hancock Street/Newbury Street intersection.

c. Public Transit Access

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

d. Parking

As previously discussed, Division 20 of the land use ordinance requires one parking space/unit for residential development located on the peninsula (*Section 14-332(a)3*). At this ratio, the project would require 39 parking spaces - one for each of the 39 units proposed. The final plans show 43 spaces, an increase of one from the preliminary plans, technically exceeding the parking requirement. Per the city’s site plan ordinance, since the project exceeds 50,000 SF, parking requirements are ultimately at the discretion of the Planning Board.

Twelve of the proposed parking spaces continue to be designed as compact spaces. This exceeds the allowable ratio per the city's Technical Manual (*Section 1.14*). The applicant has requested a waiver (*Attachment H*). Mr. Errico writes,

The plan indicates that several parking spaces will not meet City standards. The applicant has formally requested a waiver for 12 compact parking spaces where the project is proposing slightly larger spaces given support column locations. The parking lot also includes spaces with dimensions of 9.5'x19', 11'x19', and 11.5'x19'. Given column constraints in the garage, as well as the two wider spaces (11' and 11.5') are located at the end of the parking aisle and need extra maneuvering space, I support a waiver from the technical standards.

It should be noted that, in closing existing curb cuts on Hancock and Newbury Streets, approximately four on-street parking spaces will be gained. The applicant will be required to provide materials supporting this parking schedule change to the City Council.

16 bike parking spaces are proposed. This number meets the site plan standard of two spaces/five dwelling units for residential structures (*Section 14-526(a)4.b*). Bike racks are proposed at the rear of the building.

- e. *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 final landscaping plans have been revised to show smaller trees at the building's rear, tree pit planting details, and replacement trees and plants as suggested by Jeff Tarling, City Arborist. Mr. Tarling has indicated his approval of the revised landscaping plan.
- c. *Water Quality/Storm Water Management/Erosion Control*
At the request of David Senus, consulting civil engineer, the final plans include subsurface stormwater detention in a Stormtech Isolator Row system at the rear of the site. This system is designed to control the rate of stormwater flow from the site into the Hancock Street separated system, and ultimately into the downstream Ocean Gateway stormwater treatment unit. A revised stormwater management plan has been provided (*Attachment G*).

Of this, Mr. Senus writes,

The isolator row callout for the below grade storage system on Sheet 6 appears to be pointing to an adjacent row; not the isolator row.

Sheet 14 contains a detail for an "Optional Inspection Port" for the Stormtech chambers. Please clarify the number and location of inspection ports for the storage system.

The Grading and Utility Plan (Sheet 6) proposes a "4-inch Tree Pit Underdrain" below the sidewalk along Newbury Street. Upon consultation with City Arborist and DPS staff, unless there is a project-specific design reason for this underdrain, please remove this notation on the plan and the associated detail on Sheet 13.

The detail for CB#1 on Sheet 14 should include a grated cover on "Side A" of the catch basin; all other covers on CB#1 and OCS#1 should be solid covers.

Review of Stormwater Model – Clarification for Project Record (No Revisions Required): The HydroCAD stormwater model indicates that Pond 5P (Proposed Stormtech Chamber) will have 0 CFS discharge out of the “Primary Outflow” for the 1 year storm event (2.5” event); however, an overall peak discharge rate is reported for the Pond. This appears to be a result of the Reach Routing method utilized in the model. Other routing methods, when utilized in the model, report discharge from the “Primary Outflow” of Pond 5P during the 1 year storm event. Very little change in overall discharge rate is realized at downstream points regardless of the routing method utilized. As such, there is no need to change or revise the model. We note this for the project record, no revisions are required

A stormwater maintenance agreement will be required for the subsurface detention system.

3. Public Infrastructure and Community Safety Standards

a. Consistency with Related Master Plans

As noted above, the project is generally consistent with related master plans.

b. Public Safety and Fire Prevention

The applicant has provided a revised NFPA code analysis for review by the Fire Prevention Bureau (*Attachment C*). Captain Chris Pirone of the Fire Prevention Bureau has indicated that addressing for 911 purposes remains unresolved.

c. Availability and Capacity of Public Utilities

As noted above, the applicant has provided evidence of water and sewer capacity. David Margolis-Pineo, of the city’s Department of Public Services, has requested that the PWD review the location of storm drains to ensure that no conflicts with the existing water mains arise.

4. Site Design Standards

a. Massing, Ventilation, and Wind Impact

As noted in the prior memo to the Board, Seaport Lofts is proposed as a four-story building. The application states that it will not exceed the 45’ height limit, and the final elevations show a height of 44.9 feet. Verification of the proposed building height is outstanding.

In terms of context, the adjacent residential buildings are generally two-three stories in height, with the exception of the Federal Street Townhomes and Bay House Phase I, which are four. The Shipyard Brewery is a three-story building. The applicant has provided a site section, as requested by the Planning Board (*Figure 5*). This section shows the profile of the Federal Street Townhomes to the north, the proposed Seaport Lofts, and Bay House Phase I across Newbury Street.

b. Shadows

Figure 5 below shows the proposed Hancock Street grade elevations. Much of the shadow impact from the Seaport Lofts would fall on the northerly residential buildings, although this would be mitigated slightly by the elevation change toward Federal Street. There would be no shadow impacts to publicly accessible open spaces. Per the Technical Manual, a shadow study is not required for Level II or III developments that are less than 45 feet tall (*Section 11.3*). Though the height remains to be verified by the zoning administrator, it is the applicant’s intent that the building meet the zoning height limit.

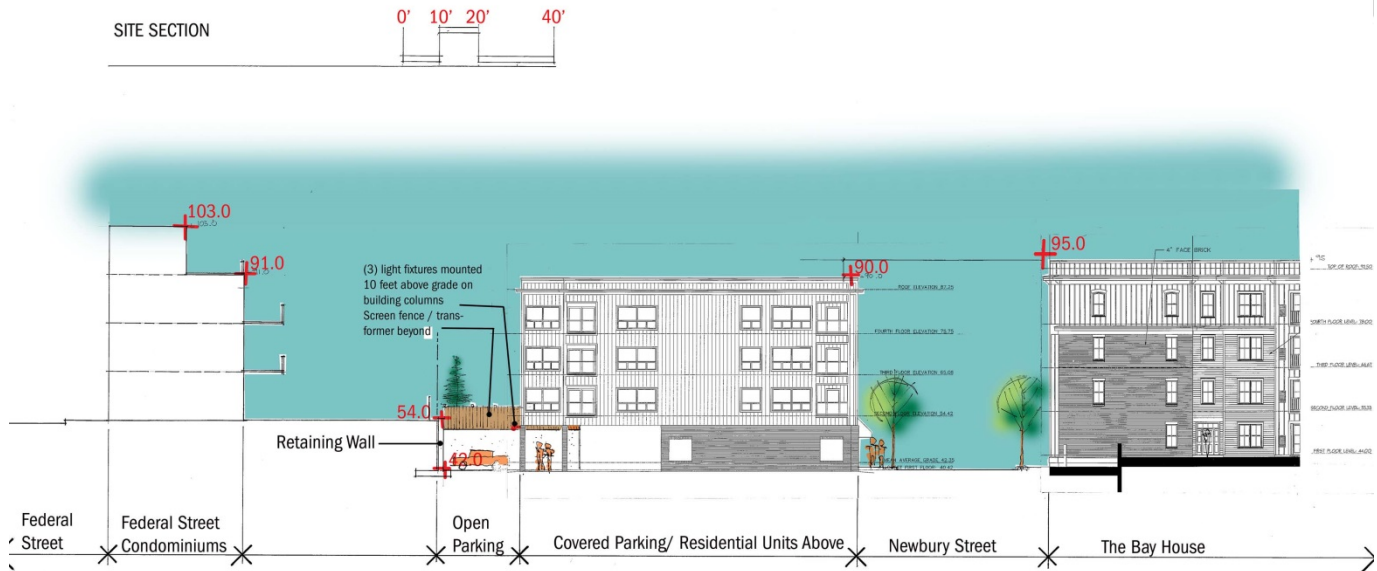


Figure 5: Proposed Hancock Street elevation

c. *Snow and Ice Loading*

The applicant has added snow storage areas to the final plans.

d. *View Corridors*

The site is not located on a recognized view corridor.

e. *Historic Resources*

The site is located more than 100’ from the nearest historic landmark, the Eastern Cemetery. As such, it is not required to undergo Historic Preservation review.

f. *Exterior Lighting*

The applicant has revised the plans to note that the Eastern Waterfront Street Lighting District streetlights are required. The applicant also proposes to install full cut-off fixtures at the rear of the building in order to light the parking area. One of these is pole-mounted, with four others mounted on the building. Cut sheets are included as *Attachment I*. The final photometric plan meets relevant technical standards.

City staff has asked the applicant to reconsider the bracket proposed for the building-mounted lights. Staff has also asked the applicant to reconsider lighting the vestibules at the first floor doorways, which are currently unlit.

g. *Noise and Vibration*

The applicant has not provided information on the noise and vibration of HVAC and mechanical equipment. Submission of this information to the Zoning Administrator for review and approval is proposed as a condition of approval.

h. *Signage and Wayfinding*

All signage and wayfinding is acceptable as shown.

i. *Zoning-Related Design Standards*

As discussed in staff’s prior Board memo, the city’s site plan ordinance states that “development in the...B-2b business zone shall provide an established street wall with entrances and public portions of the building oriented to and directly accessible from the public sidewalk and shall be designed and scaled to be compatible with surrounding residential and commercial development as demonstrated by compliance with

all applicable design standards listed in the Design Manual” (Section 14-526(d)9.a(iii)). The Design Manual includes standards and guidelines related to street walls, prominence of building entries, windows and transparency, façade character, compatibility, and landscaping.

The applicant has revised elevations and provided elevations to address the Board’s concerns about the transformer area (Figure 6). Regarding this area, the applicant shows arborvitae and azalea along the property line, as well as a 6’ solid vinyl board fence. This fence is gated in order to allow utility access. These are intended to screen the transformer from the adjacent property owner.



Figure 6: Elevation showing transformer area



Figures 7, 8, & 9: Newbury Street elevation (top), Hancock Street elevation (right); and rendering from the corner of Newbury & Hancock (Note that these renderings, dated early September, do not entirely reflect the final plans (e.g. the second story window on Hancock Street which appears out of alignment has been eliminated).

The applicant submitted renderings in early September (*Figures 7, 8, & 9*). These did not vary appreciably from those shown at the Board workshop in August. Based on these renderings, city staff conducted a design review. The applicant provided responses in their final submittal. The review comments related to the following:

- Two alcoves appear on the site and building plans, one at the rear of the building near the bike racks, and one on the Hancock Street façade near the door. These areas raise CPTED concerns. The applicant has offered to install metal screens in these locations to prevent access. The details on these screens have not been reviewed by City staff.
- The gray color proposed for the building prompts concerns as well, given the potential that the building may appear dark. The applicant has offered to provide samples of gray and an alternate color at the Board hearing. It should be noted that these samples have not been reviewed by city staff.
- As members of the public and the Board itself has noted, in renderings all sides of the building read fairly flat, including the rear which is visually prominent from neighboring properties. City staff asked the applicant to consider articulating windows and/or balconies in order to provide more variation. The applicant has responded that the windows, which are proposed to be clad in silver gray aluminum, will provide contrast with the main building material, but that projecting windows or balconies are not financially or practically feasible. City staff also asked the applicant to expand the Newbury Street balconies to encompass adjacent closet areas. The applicant responded that this was not possible given space constraints. City staff has reiterated the request that the balcony railings protrude slightly so as to create visual interest in the façade.
- In an effort to enhance building entrances, city staff asked the applicant to add a canopy to the Hancock door and consider a more architectural canopy design. The applicant has responded that “the Hancock Street ‘entry’ is actually an exit only, therefore we chose not to propose an awning in that location.” The city has reiterated this request.

The applicant has not provided revised renderings addressing these staff comments. They have indicated that financial considerations prohibit them from accommodating many of the city’s requests. The applicant has indicated that updated renderings, showing minor revisions, and material samples will be shown at the hearing. Again, these have not been reviewed by city staff.

X. STAFF RECOMMENDATION

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the Planning Board approve the proposed development at 101-121 Newbury Street.

XI. PROPOSED MOTIONS

A. WAIVERS

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in Planning Board Report # 42-13 for application 2013-179 relevant to Portland’s Technical and Design Standards and other regulations; and the testimony presented at the Planning Board hearing:

1. The Planning Board **waives/does not waive** the Technical Standard (*Section 1.7.2.7*) regarding the minimum separation between driveways to allow the driveway of Seaport Lofts within the 100-150 separation requirement as shown on the final site plan.
2. The Planning Board **waives/does not waive** the Technical Standard (*Section 1.7.2.3*) regarding the minimum driveway width of 20 feet to allow a driveway of 19 feet as depicted on the final site plan.
3. The Planning Board **waives/does not waive** the Technical Standard represented in Figures I-27 to I-29 regarding the parking lot dimensional requirements to allow parking as designed on the final plans.

4. The Planning Board **waives/does not waive** the Technical Standard (*Section 1.14*) regarding the compact parking space limit to allow 12 compact parking spaces on site.
5. The Planning Board **waives/does not waive** the Site Plan Standard (Section 14-526 (b) (iii)) regarding street trees due to site constraints and the applicant shall contribute \$5,800 for 29 street trees 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 Planning Board Report #42-13 for application 2013-179 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 release of recording plat, unless otherwise stated:

1. The Subdivision Plat shall be finalized for review and approval by the Planning Authority, Department of Public Services, and Corporation Counsel;
2. The following shall be provided for review and approval by Corporation Counsel prior to the release of the building permit:
 - a. Pedestrian access easement for the areas of the sidewalk that are not in the public right-of-way and
 - b. License agreement for the building foundation and/or awnings
3. The Condominium Association documents shall be provided for review and approval by the Planning Authority, Department of Public Services and Corporation Counsel prior to the issuance of a Certificate of Occupancy.

C. DEVELOPMENT REVIEW

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in Planning Board Report #42-13 for application 2013-179 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:

1. The applicant shall revise the final plans to include:
 - a) Delineation of the Newbury Street sidewalk in the proposed pedestrian easement area and
 - b) Sidewalk running and cross slopesFor review and approval by the city's Department of Public Services;
2. The applicant shall revise the final plans to incorporate edits as requested by David Senus in his memo dated 9/18/13, for review and approval by the city's Department of Public Services;
3. The applicant shall provide confirmation of the Portland Water District's acceptance of the location of storm drains in proximity to water infrastructure, for review and approval by the city's Department of Public Services;
4. The applicant shall obtain verification from the city's zoning administrator with respect to building height and lot coverage;
5. The applicant shall provide application materials for proposed changes to the city's traffic schedule, for review and approval by the city's Department of Public Services prior to Certificate of Occupancy;
6. The applicant shall submit a revised construction management plan for review and approval by the

Planning Authority, the Department of Public Services, the city’s Parking Manager, and the city’s Fire Prevention Bureau;

7. The applicant shall make financial contributions of \$1,200 towards improvements at the India/Middle Street intersection and \$1,200 towards the East End Traffic Monitoring Study, for review and approval by the city’s Department of Public Services;
8. The applicant shall submit the HVAC system specifications meeting applicable standards for the Zoning Administrator’s review and approval;
9. The applicant shall resolve addressing questions for fire and 911 purposes, for review and approval by the city’s Fire Prevention Bureau; and
10. The applicant shall provide revised elevations, renderings, lighting cut sheets, and details regarding the metal screens in the building alcoves which address the recommendations of the Planning Board and Planning staff, for review and approval by the Planning Authority.

XIV. ATTACHMENTS

PLANNING BOARD REPORT ATTACHMENTS

1. Public comment (letter and email correspondence from Liv Chase)
2. Public comment (letter from David Filipos)
3. Traffic Engineer review (memo from Thomas Errico, 9/19/13)
4. Department of Public Services review (memo from David Margolis-Pineo, 9/18/13)
5. Civil Engineer review (memos from David Senus, 9/18/13)

APPLICANT’S SUBMITTALS

- A. Cover Letter (from Will Conway, Sebago Technics, 9/3/13)
- B. Cover Letter (from Will Conway, Sebago Technics, 9/17/13)
- C. Building Code summaries
- D. Capacity to Serve letters & PWD correspondence
- E. Construction Management Plan
- F. Neighborhood Meeting material
- G. Stormwater Management Plan
- H. Summary of waiver requests
- I. Lighting cut sheets & photometric plan

C. PLANS

- Plan 1 Cover Sheet
- Plan 2 Boundary and Topographic Survey
- Plan 3 Demolition Plan
- Plan 4 Subdivision Plat
- Plan 5 Site Plan
- Plan 6 Grading and Utility Plan
- Plan 7 Off-Site Drainage Plan
- Plan 8 Profile: Hancock & Newbury Streets
- Plan 9 Landscape and Lighting Plan
- Plan 10 Details
- Plan 11 Details
- Plan 12 Details
- Plan 13 Details
- Plan 14 Details
- Plan 15 1st Floor Plan
- Plan 16 2nd Floor Plan
- Plan 17 3rd Floor Plan

- Plan 18 4th Floor Plan
- Plan 19 Hancock and Newbury Street Elevations
- Plan 20 Left and Rear Elevations
- Plan 21 Transformer Area Elevation
- Plan 22 Newbury Street Elevation (color)
- Plan 23 Hancock Street Elevation (color)
- Plan 24 Rear Elevation (color)
- Plan 25 Rendering
- Plan 26 Site Section