

CITY OF PORTLAND, MAINE  
PLANNING BOARD

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October 31, 2013

Demetri Dasco  
Atlas Investment Group, LLC  
35 Fay Street, 107B  
Boston, MA 02118

Will Conway  
Sebago Technics  
75 John Roberts Road  
South Portland, ME 04106

Project Name: Seaport Lofts (Bay House Phase II)  
Address: 101-121 Newbury St./40 Hancock St.  
Applicant: 113 Newbury Street, LLC

Project ID: 2013-179  
CBLs: 20-D-13, 14, 15, 32  
Planner: Nell Donaldson

Dear Mr. Dasco:

On October 22, 2013, the Planning Board considered your subdivision and Level III site plan application for the proposed Seaport Lofts development at 101-121 Newbury Street and 40 Hancock Street. The Planning Board reviewed the proposal for conformance with the subdivision and site plan standards of the city's land use code and voted to approve the application with the waivers and conditions presented below:

**WAIVERS**

The Planning Board voted (7-0) to grant the following waivers:

1. A waiver of 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 of an adjacent driveway to the west, as shown on the final site plan.
2. A waiver of 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. A waiver of the technical standard represented in Figures I-27 to I-29 of the city's Technical Manual regarding the parking lot dimensional requirements to allow parking as designed on the final plans.
4. A waiver of the technical standard (*Section 1.14*) regarding the compact parking space limit to allow 12 compact parking spaces on site, comprising more than the standard 20% of total spaces.

5. A waiver of the site plan standard (Section 14-526(b)2.b(iii)) and Technical Manual *Section 4.6.1* regarding street trees due to site constraints. Technically, 39 street trees are required on site. Only 10 trees, a number proportionate with the site's frontage, are proposed. To compensate, the applicant shall contribute \$5,800 (for 29 street trees) to Portland's tree fund.

#### **SUBDIVISION**

The Planning Board voted (7-0) that the proposed plans are in conformance with the subdivision standards of the city's land use code, subject to the following conditions of approval, which must be met prior to the release of a 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, including provisions for the allocation of at least one parking space per unit, 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.

#### **SITE PLAN REVIEW**

The Planning Board voted (7-0) that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions of approval that must be met prior to the issuance of a building permit, unless otherwise stated:

1. 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;
2. The applicant shall submit a revised construction management plan addressing the comments of Tom Errico and all phases of development 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 prior to the issuance of any permit;
3. 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;

4. The applicant shall submit the HVAC system specifications meeting applicable standards for the Zoning Administrator's review and approval;
5. The applicant shall resolve addressing questions for fire and 911 purposes, for review and approval by the city's Fire Prevention Bureau;
6. The applicant shall provide revised elevations with emphasis on articulation of the rear elevations, overall building massing with emphasis on the rear of the building, renderings, details, and material samples addressing the recommendations of the Planning board and staff on outstanding design issues (including but not limited to the treatment of proposed awnings, the proposed soldier course, metal screens, exterior lighting, and color and materials) in compliance with the Design Standards for review and approval by the Planning Board;
7. The applicant shall provide a maintenance agreement for the subsurface stormwater detention system for review and approval by Corporation Counsel and the Department of Public Services; and
8. The applicant shall submit plans and supporting documentation which specify measures to be taken to protect abutting building foundations and retaining walls during construction, including actions outlined in the email from Sebago Technics dated October 21, 2013, for approval by the Planning Authority, Corporation Counsel, and the Department of Public Services prior to the issuance of any permit.

The approval is based on the submitted plans and findings related to subdivision and site plan review standards as contained in the Planning Board Report for application 2013-179, which is attached.

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

Please note the following standard conditions of approval and requirements for all approved subdivision and 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, an inspection fee payment of 2.0% of the guarantee amount, and seven (7) final sets of plans plus one final digital copy must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a subdivision plat for recording at the Cumberland County of Deeds, and prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
8. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
10. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

11. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.
12. **Mylar Copies** Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to the Public Services Dept. prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to the 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.

If there are any questions, please contact Nell Donaldson at (207) 874-8723.

Sincerely,



Carol Morissette, Chair  
Portland Planning Board

**Attachments:**

1. Planning Board Report
2. Sample stormwater maintenance agreement

**Electronic Distribution:**

cc: Jeff Levine, Director of Planning and Urban Development  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Philip DiPierro, Development Review Coordinator, Planning  
Marge Schmuckal, Zoning Administrator, Inspections Division  
Tammy Munson, Inspection Division Director  
Lannie Dobson, Administration, Inspections Division  
Gayle Guertin, Administration, Inspections Division  
Michael Bobinsky, Public Services Director  
Katherine Earley, Engineering Services Manager, Public Services  
Bill Clark, Project Engineer, Public Services  
David Margolis-Pineo, Deputy City Engineer, Public Services  
Doug Roncarati, Stormwater Coordinator, Public Services  
Greg Vining, Associate Engineer, Public Services  
Michelle Sweeney, Associate Engineer  
John Low, Associate Engineer, Public Services  
Matt Doughty, Field Inspection Coordinator, Public Services  
Mike Farmer, Project Engineer, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Captain Chris Pirone, Fire Department  
Thomas Errico, P.E., TY Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Approval Letter File