



PLANNING BOARD REPORT PORTLAND, MAINE

SUBDIVISION AND CHANGE OF USE/ RENOVATION OF BUILDING TO CREATE TEN APARTMENTS

415 Cumberland Avenue
Level III Subdivision Plan and Site Plan
Project ID #2015-162 CBL 036 G033001
Patrick Ducas, Applicant

Submitted to: Portland Planning Board Public Hearing Date: October 22, 2015	Prepared by: Jean Fraser, Planner Date: October 27, 2015
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I. INTRODUCTION

The applicant, Patrick Ducas, is requesting approval of a Level III application for development of the existing 3-4 story building at 415 Cumberland Avenue at the corner of Cumberland and Forest Avenues.

The property is located in the B3c zone and currently owned by 415 Cumberland LLC. The previous use was offices, including Hurley Travel. The applicant has a Purchase and Sale Agreement ([Attachment B](#)) and proposes to convert the first, second and top floors to 10 residential apartments (four 2-bedroom and six 1-bedroom) The basement will comprise inside parking for 6 cars, a commercial space and storage for the residential units.



A total of 185 notices of this Hearing were sent to residents within 500 feet and interested citizens. A notice also appeared in the October 19th and 20th, 2015 editions of the *Portland Press Herald*. The applicant held the required Neighborhood Meeting on October 8th, 2015 which was attended by two neighbors ([Attachment G](#)). The Planning office has not received any public comments as of the time of preparing this Report.

II. REQUIRED REVIEWS and REQUESTED WAIVERS

<i>Review</i>	<i>Applicable Standards</i>
Site Plan	<i>Section 14-526</i> for the proposed multifamily residential development.
Subdivision of overall site	<i>Section 14-497</i> for the division into 10 residential units.
<i>Waiver Requests</i>	<i>Applicable Standards</i>
Street trees: The applicant proposes to plant two new trees within the front garden area along Cumberland Avenue and there are two existing street trees. The request is to count four trees toward the requirement and to waive the planting of six required trees as there is no space in the ROW.	<i>Site Plan Section 14-526(b)2.b(iii)</i> and Technical Manual, <i>Section 4.6.1</i> : All multi-family development shall provide one street tree per unit. A waiver is permitted where site constraints prevent planting of all the required street trees, with the applicant contributing a proportionate amount to Tree Fund. The City Arborist counts the four trees toward the requirement and supports a waiver of six trees with the recommendation that a \$1200 Tree Fund contribution (Att 3).

III. PROJECT SUMMARY

Existing Zoning:	B3c Business Zone
Proposed Use:	10 Residential Apartments on first, second and third floors
Parcel Size:	6098 sq ft
Total Disturbed Area:	None- all interior improvements
Existing Building footprint:	4,999 sq ft
Proposed Building footprint:	4,999 sq ft
Existing Building floorspace:	15,708 sq ft over 4 stories
Proposed Building floorspace:	15,708 sq ft over 4 stories
Proposed uses:	12,486 sq ft residential including units, storage and parking 1300 sq ft commercial on lowest floor 1922 sq ft common area
Residential Data:	
Existing Res. Units:	None
Proposed Res. Units:	10 apartments
Bedroom Mix:	4 No 2-bedroom units 2 No 1 bedroom units
Parking Spaces:	
Existing:	6 (within garage as part of building)
Proposed:	6 (within garage as part of building) (includes one handicapped space)
Bicycle Parking Spaces:	
Existing:	None
Proposed:	10; 4 required
Estimated Cost of Project:	\$685,000
Uses in Vicinity:	The site will provide in-city living for renters, which is near services, such as businesses, institutions, employers and public transportation.

III. PROJECT DESCRIPTION

The existing 3-4-story building is part of a group of 4-5 story buildings that include the YMCA at the corner of Forest and Cumberland Avenues. The part of the building fronting onto Forest Avenue dates from the 1860's and the rear section is recent.

The only open site area is a sliver along the west side which allows for a fire escape (see photos submitted by the applicant in [Plan P5](#)) and an open but fenced area at the north side which has a access easement over it for the YMCA and can be reached via the garage curb cut.



The existing use has been commercial with storage and the proposals retain 1300 sq ft of commercial space on the ground floor with the remainder converted to 10 residential units and supporting storage (1650 sq ft) and garage parking for 6 cars.

The proposals are described in [Attachment E](#) and illustrated in [Plans P2 to P5](#); the site plan aspects of the proposals are:

- Use of part of the rear (north) open easement area for trash storage in 10 separate bins;
- Landscape enhancement in the front gardens, including two additional street trees;
- Provision of (at least) 4 bicycle parking spaces under the fire escape on the west elevation;
- Improvement of the crosswalk ramp panel;
- Upgrading of utilities with sidewalk reinstatement as required.

IV. RIGHT, TITLE AND INTEREST AND FINANCIAL CAPACITY

a. The owner of the property is 415 Cumberland LLC and the applicant has a Purchase and Sale Agreement to purchase the property (Attachment B) which demonstrates their right, title and interest in the property. The YMCA has an access easement over a small area to the north of the property, as detailed in Attachment D.

b. The estimated cost of the development is \$685,000 (see Attachment A data sheet) and the applicant has confirmed the funds are partly from personal equity (Ducas Construction Inc) as well as bank finance, and bank letters from Bangor Savings Bank and Gorham Savings Bank have been submitted to document the available finance for this project (Attachment C).

V. ZONING ASSESSMENT

The proposed units are proposed to be market rate apartments and are permitted as “residential multi family” uses in the B3c zone. Part of the ground floor remains commercial, which is permitted as a business use in the B3c zone. The site is not within the PAD Overlay Zone. The project is exempt from providing any additional dedicated parking for the project under the zoning ordinance as a change of use in the B3c Downtown Business Zone. The proposal does not include any alterations to the existing footprint of the building nor its height. The staff finds the application to be in conformance with the B-3c zone, and notes that the trash storage is regulated in the *External effects* section 14-221.1.

VI. DEVELOPMENT REVIEW

A. SUBDIVISION and SITE PLAN SUBMISSION REQUIREMENTS (Section 14-497 & Section 14-527)

All requirements have been met. The subdivision plat (Plan P2.) has been reviewed by the Department of Public Services (DPS) Surveyor, the Legal Department and the Fire Department staff (Attachments 1, 4 and 5). The Legal Department and DPS Surveyor have requested clarification regarding the easements and other survey information; the draft plat in Plan P2 will need to be revised to address these comments.

A recommended condition of approval calls for a revised plat to be submitted for review by the Planning Authority, Department of Public Services and Associate Corporation Counsel prior to the signature of the Planning Board.

It is understood that the apartments are being created for rental so there are no Condominium Documents submitted. A suggested subdivision condition of approval requires the submission of such documents if the nature of the units is changed in the future.

B. SUBDIVISION REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of Portland’s Subdivision Ordinance and applicable regulations. Staff comments are listed below.

1. Will Not Result in Undue Water and Air Pollution (Section 14-497 (a) I), and Will Not Result in Undue Soil Erosion (Section 14-497 (a) 4)
Staff finds the proposed project is in conformance with this standard.
2. Sufficient Water Available (Section 14-497 (a) 2 and 3)
The applicant has spoken to the Portland Water District and understands that there is adequate capacity and there is the possibility that the immediate supply infrastructure will have to be upgraded as part of the proposals (Attachment F). The applicant does not yet own the property, so the capacity letter from PWD is suggested to be the subject of a condition of approval.
3. Will Not Cause Unreasonable Traffic Congestion (Section 14-497 (a) 5)
Please see paragraph C1 below. The staff finds the proposal will not cause unreasonable traffic congestion.
4. Will Provide for Adequate Sanitary Sewer and Stormwater Disposal (Section 14-497 (a) 6), and Will Not Cause an Unreasonable Burden on Municipal Solid Waste and Sewage (Section 14-497 (a) 7)
Staff finds the project in conformance with this standard subject to confirmation regarding the roof drains; please see paragraph C2 below.
5. Scenic Beauty, Natural, Historic, Habitat and other Resources (Section 14-497 (a) 8)
The proposed project will not have an adverse effect on the scenic or natural beauty of the area, thus the proposed project is in conformance with this standard.

6. Comprehensive Plan (Section 14-497 (a) 9)

The following statement is housing policy that is relevant to this proposal and the staff finds the proposed project is in conformance with this standard.

The first policy of Housing: Sustaining Portland's Future is to ensure an adequate and diverse supply of housing for all. Objectives under that policy include the following:

- Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied. The list of potential housing options under this objective include:
 - ii. Housing units for decreasing household sizes, such as young professionals, empty nesters, single parent households and senior citizens.
 - v. Higher density housing, such as row houses, small lots, reuse of non-residential buildings, and mixed use buildings.
- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers and public transportation.
- Evaluate and update current zoning, as needed, to encourage higher density multi-family developments and mixed use projects that incorporate housing, particularly along major public transportation routes, near services areas, and in redevelopment or infill areas, where appropriate.
- Encourage housing within and adjacent to the downtown. Evaluate and update current zoning and building codes, as needed, to facilitate new housing and redevelopment opportunities....

7. Financial Capability (Section 14-497 (a) 10)

Please see above under Section V.

C. **SITE PLAN STANDARDS** (Section 14-526)

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

1. **Transportation Standards**

- a. Impact on Surrounding Street Systems
- b. Access and Circulation
- c. Public Transit Access
- d. Parking
- e. Transportation Demand Management (TDM)

STAFF COMMENT: The proposed project is not anticipated to have any significant adverse effect on regional traffic, and the parking needs have been addressed by the retention of the 6 existing parking spaces in the garage which have an existing curb cut that is satisfactory. A recent aspect of the review of pedestrian access relates to compliance with current ADA requirements and the applicant has submitted a note confirming compliance (Attachment I).

A satisfactory enclosed and screened trash storage is provided near the existing curb cut in Forest Avenue (see Attachment H and Plan P2 for details). This location is near the YMCA and the applicant will need to ensure that these meet the zoning requirement that no dust nor fumes are created. A suggested condition of approval requires details of the proposed bike parking to be submitted for review and approval in order to meet the bicycle parking ordinance requirement for 4 spaces.

The Public Transit and TDM standards do not apply to this project.

2. **Environmental Quality Standards**

- a. Preservation of Significant Natural Features
- b. Landscaping and Landscape Preservation
- c. Water Quality, Storm Water Management and Erosion Control

STAFF COMMENT: There is little scope for additional planting but the City Arborist (Attachment 3) has suggested enhancement of the planting at the front of the building and that this could include two additional trees which would also be credited as street trees. The City Arborist supports the waiver for six of the ten required street trees, and requests a contribution of \$1200 in lieu of these six trees.

The reuse of the building does not require any upgrading to meet current stormwater requirements, but the DPS in their Wastewater Capacity letter ([Attachment 1](#)) has requested that all rainwater downpipes be directed to the sidewalk or street level and not be connected to the sewer. The applicant is checking on whether a central roof drain is connected to the sewer and the suggested condition requires that if there is a connection that the proposals to redirect that drainage be submitted for review and approval.

3. Public Infrastructure and Community Safety Standards

- a. Consistency with Master Plans
- b. Public Safety and Fire Prevention
- c. Availability and Adequate Capacity of Public Utilities

STAFF COMMENT: The sidewalks along the frontage are in good condition but the Department of Public Services has requested that the ramp panel within the tipdown at the corner crosswalk be replaced and the applicant is willing to make this improvement (as noted on the draft Plat/Site Plan in [Plan P2](#)). A suggested condition of approval includes this item in the request for detailed plans of work in the Right Of Way.

Captain Keith Gautreau of the Fire Department has reviewed the project and confirms that all site plan concerns have been addressed ([Attachment 2](#)). He identifies 911 and street addressing as a particular concern because the entrances to the building are on two streets, and this has been highlighted in a suggested condition of approval.

The wastewater capacity letter has been received ([Attachment 1](#)) and the applicant understands that adequate water supply will be available ([Attachment F](#)). A suggested condition of approval requires the submission of the Portland Water District capacity letter. The applicant understands that he may need to upgrade on-site water and sewer infrastructure roughly where these are currently located, but details have not been submitted. A suggested condition of approval requires submission of details for any utility work, and associated reinstatement of the ROW/sidewalk where those are disturbed, for review and approval by the Planning Authority.

4. Site Design Standards

- a. Massing, Ventilation and Wind Impact
- b. Shadows
- c. Snow and Ice Loading
- d. View Corridors
- e. Historic Resources
- f. Exterior Lighting
- g. Noise and Vibration
- h. Signage and Wayfinding
- i. Zoning Related Design Standards

STAFF COMMENT: The building is an existing structure with few exterior modifications. It is not located within an Historic District and is more than 100 feet from the boundary of the Congress Street Historic District, though it is nearby. The proposals include (see [Attachment H](#)) a security light in the area of the trash storage and a suggested condition requires that this meet the City's Technical Standards. The other standards do not apply to this project.

The proposals are for a multi-family development and therefore must meet the following standards:

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: These standards do not apply as the development is within an existing building.

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: There is little opportunity for additional planting, and the proposal to upgrade the front planted area generally addresses this standard.

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 within an enclosed building and the vehicles are screened.

VII. STAFF RECOMMENDATION

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the Planning Board approve the proposed subdivision and site plan for ten units within the existing building at 415 Cumberland Avenue.

VIII. PROPOSED MOTIONS FOR THE BOARD TO CONSIDER

A. WAIVER

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 October 27, 2015 for application #2015-162 (415 Cumberland Avenue) relevant to Portland's Technical and Design Standards and other regulations, and the testimony presented at the Planning Board hearing:

- i. The Planning Board (**waives/does not waive**) *Section 14-526 (b) (2) (b) (iii) Street Trees*, in respect of 4 of the 10 required street trees due to the lack of space, subject to the applicant making a contribution of \$1200 to the City of Portland Tree Fund (prior to the issuance of a building permit) towards the installation and maintenance of three urban street trees in the vicinity of the site.

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 for the public hearing on October 27, 2015 for application #2015-162 (415 Cumberland Avenue) 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 condition of approval:

- i. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Corporation Counsel, and Department of Public Services, and include confirmation regarding the street tree requirements, clarification of easements, and other information along with relevant notes and conditions prior to submission for Planning Board signature; and
- ii. That in the event the property is converted to a condominium, that the recorded condominium documents shall be copied to 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 October 27, 2015 for application #2015-162 (415 Cumberland Avenue) 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:

- i. That the applicant shall submit a revised site plan/plat that shows the location and design of the 4 bicycle parking spaces, the proposed planting in the front garden area including 2 street trees on the site, and the replacement ADA ramp panel in the ROW at the corner of Forest Avenue and Cumberland Avenue (to meet the City's Technical Standards for any work in the ROW), for review and approval by the Planning Authority prior to the issuance of a building permit; and
- ii. That the applicant shall submit plans showing the proposals for: A) Any modifications to the roof drainage to meet the Wastewater Capacity Letter conditions (that all roof drainage be directed to the sidewalk or street level); and B) All upgrades to the existing water and sewer utilities at the existing locations, including restoration of the sidewalk (to meet the City's Technical Standards for any work in the ROW); both for review and approval prior to the issuance of a building permit; and
- iii. That the applicant shall submit the capacity letter in respect of water supply prior to the issuance of a building permit; and
- iv. That any exterior lighting shall meet the to meet the City's Site Lighting Standards in Section 12 of the Technical Manual, and the trash storage area shall meet the B3c *External Effects* standards; and
- v. That the applicant shall address the comments of the Fire Department dated 10.7.15 regarding the development of street addresses and their marking on the structure prior to the issuance of a certificate of occupancy; and
- vi. That a separate "change of use" permit shall be obtained from the Inspections Division.

Attachments:

Planning Board Report Attachments

1. DPS Comments on Plat & within Wastewater Capacity Letter
2. Fire Department comments site plan
3. City Arborist final comments 10.22.2015
4. Legal comments (Plat) 10.19.2015
5. Fire Department comments (Plat) 10.15.2015

Plans

- Plan P1 Boundary Survey
- Plan P2 Draft Subdivision Plat (also Site Plan)
- Plan P3 Architectural cover sheet
- Plan P4 Floor Plans of proposed Apartments
- Plan P5 Elevations (photos)

Public comments (none received)

Applicant's Submittal

- A. Application
- B. Evidence of RTI (P&S Agreement)
- C. Financial Capacity Information
- D. Deed with YMCA Access Easement
- E. Development Narrative & Code Summaries
- F. Water and Sewer Capacity
- G. Neighborhood Meeting Certificate
- H. Further Information from applicant
- I. ADA Compliance