

CITY OF PORTLAND, MAINE

PLANNING BOARD

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October 14th, 2015

Daniel Soley
LK Exchange, LLC
Box 411, 100 Commercial Street
Portland ME 04101

Project Name: Conversion of Upper Floors into Four Residential Condominiums, with Renovations and Site Improvements
Project #: #2015-157; Level III Subdivision and Site Plan
Address: 11 Brown Street, Portland
CBL: 037 1007001
Applicant: LK Exchange, LLC
Planner: Jean Fraser

Dear Mr. Soley:

On October 13th, 2015, the Planning Board considered the Level III Subdivision and Site Plan application for the conversion of the upper three floors of the four-story Eastman Block at 11 Brown Street. The conversion creates four residential condominiums totaling 7,160 sq ft within the existing structure, along with external renovations and minor site 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 application #2015-157 on October 13, 2015 relevant to Portland's Technical and Design Standards and other regulations, and the testimony presented at the Planning Board hearing:

1. **Street Trees:** The Planning Board voted 5-0 (Soley recused) to waive *Section 14-526 (b) (2) (b) (iii) Street Trees*, in respect of 2 of the 4 required street trees due to the lack of space, subject to the applicant making a contribution of \$400 to the City of Portland Tree Fund towards the installation and maintenance of two urban street trees in the vicinity of the site.
2. **Parking space size:** The Planning Board voted 5-0 (Soley recused) to waive *Technical Manual Section 1.14. Parking spaces*, which requires compact parking spaces to be 8 feet wide by 15 feet long, to allow three "compact" spaces in the rear parking area to be 8 feet wide by 16 feet long as supported by the Traffic Engineering Reviewer.

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 13, 2015 for application #2015-157 relevant to the Subdivision regulations, and the testimony presented at the Planning Board hearing, the Planning Board voted 5-0 (Soley recused) that it finds the plan is in conformance with the subdivision standards of the land use code subject to the following condition of approval:

- i. The applicant shall finalize the subdivision plat and associated condominium documents for review and approval by Corporation Counsel, the Department of Public Services, and the Planning Authority prior to the plat being signed by the Planning Board.

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 13, 2015 for application #2015-157 relevant to the site plan regulations; and the testimony presented at the Planning Board hearing, the Planning Board voted 5-0 (Soley recused) that it finds the plan is 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 landscape detail (showing materials and dimensions) for (a) the dumpster enclosure and (b) the area near the ROW between the building and the south property line to address the 10.7.2015 comments of the City Arborist, incorporate the bike rack, and place a bollard at the ROW line in front of the first parking space, for review and approval by the Planning Authority and Historic Preservation Program Manager prior to the issuance of a building permit; and
- ii. That the applicant shall submit a plan showing the design and location of the bicycle racks, meeting the specifications in the City's technical manual and located in two locations (one rack for 2 bicycles in the area near the ROW, and one in the rear yard enclosure), for review and approval by the Planning Authority and Historic Preservation Program Manager prior to the issuance of a building permit; and
- iii. That the applicant shall submit a revised on-street parking layout that takes account of the revised curb cut and addresses the suggestion for a commercial loading area (possibly south of the curb cut), for further discussion and agreement with the Planning Authority and the City Parking Department. 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
- iv. That the applicant shall continue to seek an agreement with the abutter to the south to upgrade the boundary treatment and include low planting if possible; any detailed proposals for this treatment/planting to be reviewed and approved by the Planning Authority and Historic Preservation Program Manager prior to installation; and
- v. That the applicant shall add a note to the plans in respect of all work in the ROW that it shall be undertaken to the City's Technical Standards, and shall obtain a letter documenting the wastewater capacity for the proposed condominiums, both prior to the issuance of a building permit; and
- vi. That the applicant shall advise the potential purchasers and future owner of the ground floor commercial space that a grease-trap (to City specifications) would be required if the proposed occupier(s) is a restaurant or similar use.

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 #2015-157 which is attached. It should be noted that the property is located within the Congress Street Historic District and the exterior building and site renovations require a Certificate of Appropriateness from the Historic Preservation Program Manager.

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. **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 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. City Arborist comments 10.7.2015
2. Traffic Engineer Review comments 10.2.2015
3. Planning Board Report for #2015-157 11 Brown Street
4. Performance Guarantee Packet

Electronic Distribution:

cc: Jeff Levine, AICP, Director of Planning and Urban Development
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
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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
Deborah Andrews, Historic Preservation Program Manager
Rick Blackburn, Assessor's Department
Approval Letter File

From: Jeff Tarling
To: Jean Fraser
Date: 10/7/2015 2:44 PM
Subject: Landscape Review for # 11 Brown Street

Jean -

In review of the proposed landscape treatment for the 11 Brown Street condo project I wanted to offer the following comments:

Street-trees: The project proposes the planting of one 'street tree' near the Brown Street entrance and two 'parking lot' trees in the parking lot area. The one 'street-tree' near Brown Street meets the landscape standard, the two trees in the parking lot meet the condition of being within 10' of the property line but not near the City 'right of way' and can not be considered as substitutes for street trees.

I recommend that the applicant be requested to contribute \$600 (3 trees X \$200 per tree) to meet the street tree requirement of 4 street trees.

Parking Lot Landscape - Due to site constraints for traffic circulation and parking the existing landscape planting is slated for removal. Ideally some type of landscape should be considered along the building / pavement edge. This could be in the form of a small planter with vines or something hardy like Comptonia (Sweetfern) or ornamental grasses if space allows. Efforts to secure the guardrail improvement between the two lots should be condition as the existing separation is in poor if not unsightly condition. Improved guardrail should have rails on both sides to help prevent damage to vehicles and to improve the overall view of the parking lot and help define circulation. This could be 'Core-ten' steel on wood post or wood post with wood rails. (The current guardrail does not appear to be functioning well from the image attached.)

Plaza Landscape - the proposed plaza entrance improvements are one of the projects bright spots in regards to landscape improvements. Recommendations would include having a slightly raised planting bed to reduce winter de-icing salt damage to plants and to help create separation for the walking surface to plant space protection. The raised edge could be concrete formed, granite curbing, wooden or steel edging. Landscape planting should 'wrap around' towards the building frontage facing the street to help define the circulation along with adding a greener street look. Concept wise the design adds interest to the current conditions. Unknown if the proposed plaza and residential entrance meets ADA standards or if a slight ramp is needed?

Dumpster enclosure - This project site has a very visible dumpster location due to the exposed adjacent parkinglot from Free Street. Adequate dumpster screening meeting standards would be a condition.

Overall the project site presents challenges due to space limitations and adjacent surface parking use that is void of landscape / buffering treatments. Thus the mentioned recommendations of expanding the landscape scope to revisit the inclusion of a small narrow planting strip with ornamental grass or vines would help if at all possible.

Guardrail improvement recommendation would help improve the current use and function along with providing better space separation.

Thanks,
 Jeff Tarling, City Arborist

From: Tom Errico <thomas.errico@tylin.com>
To: Jean Fraser <JF@portlandmaine.gov>
CC: David Margolis-Pineo <DMP@portlandmaine.gov>, Katherine Earley <KAS@port...>
Date: 10/2/2015 2:23 PM
Subject: 11 Brown Street - Traffic Comments

Jean - I have reviewed the site plan application materials and I generally find the project to be acceptable with the following comments.

- * The compact parking spaces are slightly larger than City Standards. I support a waiver for larger spaces.
- * The general parking lot and access will not be significantly different from existing conditions (although the width of the entry roadway will increase with the removal of the raised planting bed). Vehicles parking along the guard rail will have the ability to turnaround in the rear of the property. I would also note that given Brown Street traffic conditions, I find backing maneuvers to be acceptable. I find parking and circulation to be acceptable.
- * The applicant should consider treatment that prevents vehicles parked in space #1 from encroaching onto the sidewalk.
- * The applicant is proposing narrowing of the curb cut, which I find to be acceptable. This change will increase the length of curb side parking and during discussions with the applicant a commercial loading regulation was suggested. I support this change, but would like to discuss this with the City Parking Department. I would also note that changes to on-street parking will require City Council action and the applicant would be required to assist in preparing council meeting materials.
- * The bicycle racks are located in least accessible location on the site. The applicant should consider other more accessible and visible locations.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE
Senior Associate
Traffic Engineering Director
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