

# CITY OF PORTLAND, MAINE

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## PLANNING BOARD

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January 28<sup>th</sup>, 2013

Vincent Veroneau  
J B Brown & Sons  
PO Box 207  
Portland, ME 04112

Project Name: **Mixed Use Development at 321 Commercial Street (corner Maple Street)**  
Project ID: 2012-615 CBL: 40-E-3  
Address: 321 Commercial Street  
Applicant: J B Brown & Sons  
Planner: Jean Fraser

Dear Mr Veroneau:

On January 22<sup>nd</sup>, 2013, the Planning Board considered the Level III application for the Mixed Use Development at 321 Commercial Street (corner Maple Street) to construct a six story mixed use condominium building comprising up to 113,321 sq ft, including restaurant space, a 131 room hotel, and up to 14 residential units along with 33 on-site parking spaces. The Planning Board reviewed the proposal for conformance with the standards of the Traffic Movement Permit, Subdivision Ordinance and Site Plan Ordinance.

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report # 02 -13 (Attachment 3) for the Mixed Use Development at 321 Commercial Street (corner Maple Street) relevant to the Site Plan and Subdivision reviews and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board voted 7-0 to approve the application with the following waivers and conditions as presented below:

### WAIVERS

The Planning Board voted 7-0 to approve the following waivers:

1. *Location and Spacing of Driveways*

The Planning Board waives Technical Standard, Section 1.20.1, to allow a two way site entrance on Maple Street approximately 80 feet from the existing access to the adjacent lot.

2. *Parking Aisle:*

The Planning Board waives Technical Standard, Section 1.14, Figures I-28 to I-32 which requires a 24 foot wide drive aisle, to allow a reduction to 20 feet width behind the 5 parking spaces adjacent to the drive access near Foundry Lane.

3. *Crosswalk Sight Distance:*

The Planning Board waives Technical Standard, Section 1.20.1, to allow a reduction in the required sight distance to the centerline of the crosswalk on the east side of Commercial Street, subject to the removal of an additional parking space nearest to the crosswalk, as based on Plan CO4 Rev 1.15.2013.

4. *Flooding:*

The Planning Board waives Technical Standard, Section 5 III 4 E (2) (a) and (b), to allow the minor increase in post-development stormwater flows to the tidal Fore River, a tributary to Casco Bay (the Atlantic Ocean).

5. *Site Lighting:*

The Planning Board waives Technical Standard, Sections 12.2.3 Illumination Levels and 12.2.5 Light Trespass, to allow 10 locations near the building where maximum light levels are exceeded by up to 4 foot candles, and to allow some minor trespass at the property boundaries that benefit the pedestrian areas.

## **TRAFFIC MOVEMENT PERMIT**

Based on the City of Portland's Delegated Review authority, the Planning Board voted 7-0 that the proposed plan is in conformance with 23 MRSA 704-A and Chapter 305 Rules and Regulations pertaining to Traffic Movement Permits, subject to the following condition:

1. That the applicant shall contribute \$12,500 to an account maintained by the City that will be used to fund traffic improvements to the intersection at Commercial Street / High Street.

## **SUBDIVISION**

The Planning Board voted 7-0 that the plan is in conformance with the subdivision standards of the land use code, subject to the following five (5) conditions of approval:

1. That the Subdivision Plat shall be finalized and submitted to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel and include references to the hotel and restaurant (retail) floorspace maximums, off-site parking requirement, stormwater management, waste collection, maintenance responsibilities for the Foundry Lane area, easements, street trees, Condominium Association documents and relevant conditions; and
2. That the following shall be finalized to the satisfaction of the Corporation Counsel prior to the issuance of a Certificate of Occupancy:
  - a. Pedestrian access easement for the areas of the sidewalk that are not in the right of way;
  - b. Public Access Easement for Foundry Lane;
  - c. Stormwater management agreement;
  - d. Easement or agreement (permanent) to allow access to waste collection and service delivery area over a different lot and access;
  - e. Access Easement Agreement (applicant and Baxter Place) for Foundry Lane to reflect final proposals; and
3. That the Condominium Association documents be revised to include references to the Stormwater Management Plan (inspection and reporting requirements), TDM Plan, HVAC requirements, management and maintenance arrangements for the Foundry Lane area, solid waste collection, floorspace of each of the units, and the detail of site plan/subdivision approvals, and shall be finalized to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel prior to the issuance of a Certificate of Occupancy; and
4. That the Condominium Association shall develop, implement and manage the approved Transportation Demand Management (TDM) plan as set out in the submitted October 22, 2012 TDM Plan and the response to comments letter prepared by John Adams dated January 9, 2013, which include a Post-Development Monitoring Phase; and
5. That the applicant shall submit a revised Landscape Plan that demonstrates the provision of 14 street trees, however the applicant need not place a street tree within the patio, and shall otherwise address the comments of the City Arborist dated January 11, 2013, and include details of the sidewalk construction and associated replacement planting along Maple Street between the new site entrance and York Street, for review and approval by the City Arborist and Planning Authority prior to the issuance of a building permit; and

6. That the applicant and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post-Construction Storm Water Management, which specifies the annual inspections and reporting requirements. The developer/contractor/subcontractor must comply with conditions of the submitted Stormwater Management and Stormwater Pollution Prevention Plans (dated October 22, 2012 and updated January 2, 2013) and the approved plans, and meet City standards and state guidelines.

## **SITE PLAN**

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 nine (9) condition(s) of approval:

1. That the parking required for the proposed mixed use development has been determined by the Planning Board to be 110 spaces for the proposed uses within the mixed use building, as based on a total floorspace of 113,321 sq ft (7,185 sq ft floorspace for restaurant/retail; 86,608 floorspace for hotel; and up to 14 residential units), of which 33 parking spaces are located on site; 10 parking spaces are located off site; and 76 valet-only parking spaces are located off site. The off-site parking spaces shall be located at 50-70 Danforth Street (where previous site plan approvals for parking are in place) unless an alternative site is submitted for review and approval by the Planning Authority; and
2. That vehicle deliveries and collection of waste shall take place on the site, on the adjacent site, or on Commercial Street, and that delivery vehicles shall not be allowed to park on Maple Street in order to serve the development; and
3. That the building architecture and material details, including lighting, retaining walls, signage, fencing and enclosure of roof top mechanical equipment, shall be reviewed and approved by the Historic Preservation Board/Program Manager (as appropriate) for conformance with Historic Preservation Board approvals, prior to the issuance of a Building Permit; and
4. That the proposed crosswalk in Commercial Street shall be revised in accordance with the comments of the Traffic Engineering Reviewer, Tom Errico dated 1.16.2013, for review and approval by the Planning Authority, Department of Public Services and the Crosswalk Committee prior to any construction related to the crosswalk; and
5. That the applicant shall arrange for a revised parking schedule for on-street parking on Commercial and Maple Streets to be approved by the City Council; and
6. That the applicant shall submit, for review and approval by the Planning Authority and the Department of Public Services, a revised Construction Management Plan that addresses the comments of Tom Errico, Traffic Engineering Reviewer, dated 1.16. 2012 prior to the start of construction; and
7. That the applicant shall obtain a license from the City, subject to review and approval by the Corporation Counsel's office, for any canopies that extend over the City right-of-way, prior to the issuance of a Certificate of Occupancy; and
8. That the Stormwater Planter underdrains shall not be tied into the existing catch basin in Maple Street, but shall be directly connected to the City's 18inch RCP stormdrain in Commercial Street via an insert-tee connection; and
9. That the applicant shall submit for review and approval by the Planning Authority a signage and wayfinding plan that would assist the different users of the site; and
10. All HVAC systems and external mechanical equipment shall meet the maximum allowable noise requirements of the zone; each unit shall submit documentation of dBA output to confirm compliance of both the unit and the building in respect of rated noise levels and cumulative noise levels, to the satisfaction of the Zoning Administrator prior to the issuance of a Building Permit for that unit. This requirement shall be included in the Condominium documents.

## 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.
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 seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Department 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,



Carol Morrissette, Chair  
Portland Planning Board

**Attachments:**

1. Traffic Engineering Review comments, e-mail from Tom Errico dated 1.16.2013
2. City Arborist comments, e-mail from Jeff Tarling dated January 11, 2013
3. Planning Board Report #02-13
4. City Code, Chapter 32
5. Performance Guarantee Packet

**Electronic Distribution:**

cc: Jeff Levine, AICP, Director of Planning and Urban Development  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Jean Fraser, Planner  
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  
Rhonda Zazzara, 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

**From:** Jeff Tarling  
**To:** Jean Fraser  
**Date:** 1/11/2013 4:51 PM  
**Subject:** 321 Commercial Street Hotel  
**Attachments:** Raingrdnsign.JPG

Hi Jean -

I have reviewed the landscape plan for 321 Commercial Street and offer the following comments / conditions:

- a) Street-trees - I would recommend the Zelkova trees selected for the Commercial Street frontage be the Zelkova 'Musashino' variety vs 'Green Vase'. The Musashino types are more narrow vase shaped 45' tall by 20' wide vs 50' tall by 40' wide. This will fit in next the proposed development with less canopy impact in the future.
  
- b) Maple Street entrance planting area - this area is well landscape in regards to the number of plants, however, the planting lacks height. An additional two or three trees within the landscape area should be included as a condition. The plant / tree types and location would be flexible to fit into the overall theme of the proposed project. Suggested tree types could be River Birch, American Hornbeam, Three Flower Maple, Katsura, Magnolia... Metasequoia, Swiss Stone Pine, Serbian Spruce for conifers. This could be in place of the proposed Mugo Pines.
  
- c) Rain-garden Planter - The 321 Commercial Street project will install the first commercial rain garden planter in Portland. We would be willing to assist on the planting types if interested.

**From:** Tom Errico <thomas.errico@tylin.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**CC:** David Margolis-Pineo <DMP@portlandmaine.gov>, Katherine Earley <KAS@portlandmaine.gov>, Jeff Tarling <JST@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>  
**Date:** 1/16/2013 4:25 PM  
**Subject:** 321 Commercial Street - Final Traffic Comments

**Attachment 2**

Jean - I have reviewed the revised plans and traffic information and the following represents my final comments.

\* November 9, 2012 Comment: I have reviewed the conceptual Construction Management Plan and generally find the concept to be acceptable (maintaining sidewalk and bicycle facilities on Commercial Street). I would note that specific details will need to be coordinated prior to construction.

December 12, 2012 Comment: This comment remains valid.

**Status: The applicant shall submit a detailed construction management plan for review and approval prior to construction. I would note that the sidewalk detour on Maple Street includes a section where a sidewalk is not provided and thus changes may be required. I would also note that with the closure of Foundry Lane, traffic will be diverted to Center Street (behind the Baxter Building). This diversion may require changes to existing circulation restrictions. Lastly, construction vehicle access needs to be reviewed particularly in light of the proposed Charter School which is expected to be open later this summer.**

\* November 9, 2012 Comment: I have conducted a preliminary review of the parking demand analysis and generally find the methods to be acceptable. The applicant should provide additional supporting data for the use of the 0.65 parking rate for the hotel. Given the availability of good parking generation information at the existing Hampton Inn, I would like to gain an understanding on the rates computed locally, versus those established by Hilton Worldwide. I would note that I do not expect the parking demand numbers to change significantly.

December 12, 2012 Comment: I have reviewed the response by the applicant and concur with the methods used for calculating parking demand for the project and therefore find the projects parking supply estimate to be acceptable.

\* November 9, 2012 Comment: The driveway on Maple Street will require a waiver from the City's technical standards for driveway separation. Given the volume and speed of traffic on Maple Street I support a waiver from the City's technical standards.

December 12, 2012 Comment: I have no further comment.

\* November 9, 2012 Comment: The painted areas at the driveway entry on Maple Street should be removed.

December 12, 2012 Comment: The plans have been revised to note that areas are not to be painted. I have no further comment.

\* November 9, 2012 Comment: The applicant has illustrated a proposed crosswalk on Commercial Street at the easterly corner of Maple Street. I need to review this proposal. My general sense is additional features are needed for safe pedestrian crossing. I would also note that the alignment of the crosswalk on the site plan will need to be adjusted to meet the City's perpendicular alignment design preference. The crosswalk paint detail would also need to be "Block" style.

December 12, 2012 Comment: The provision of a crosswalk at this location needs to be reviewed by the City Crosswalk Committee. A request to add this to their January 3, 2013 agenda should be undertaken by Planning staff. I would note that I am in support of a crosswalk at the Commercial Street/Maple Street intersection location.

**Status: I support the proposed crosswalk on Commercial Street with the following suggested changes. I would further note that this crosswalk was reviewed by the City's Crosswalk Committee and the Committee provided conditional support. Final approval of the details by the Committee will be required:**

- o **The Commercial Street crosswalk shall not intersect the Maple Street crosswalk at an "apex" location. Separate crosswalk ramps shall be constructed on the project site corner. This change may require some adjustment to the proposed stormwater planter.**

- o **For improved safety it is suggested that an additional parking space be eliminated on Commercial Street abutting the proposed crosswalk. Accordingly, the striped island will need to be expanded.**
- o **The applicant shall install crosswalk warning signs that meet standards in the MUTCD.**

\* November 9, 2012 Comment: It appears that a pedestrian easement will be required for sidewalks areas abutting the project.

December 12, 2012 Comment: The applicant understands the need for an easement and will be providing the necessary information.

**Status: A condition of approval notes a requirement to provide appropriate pedestrian easements. I have no further comment.**

\* November 9, 2012 Comment: The 11 parking spaces on the former Foundry Lane do not appear to meet City dimensional standards. A waiver will be required. I would also note that there is general concern about pedestrian accessibility in this area and modifications to the plan may be necessary.

December 12, 2012 Comment: The applicant has submitted a revised plan and the design details indicate waivers will be required. I support waivers from the City's Technical Standards given the desire to provide a dedicated pedestrian facility leading to York Street. I have reviewed the responses from the applicant on comments as it relates to the access to the compact vehicle parking space and a narrow aisle width. I find their responses to be reasonable and as noted above support waivers from City standards.

**Status: I had some prior comments that noted concern about the width of the brick crosswalk treatment on Foundry Lane at Commercial Street and the width of the paved area abutting the building on Foundry Lane. The plans have been revised and I have no further comment.**

\* November 9, 2012 Comment: I need to review the design details on the diagonal parking on Commercial Street (e.g. dimensions, painted corner areas, etc.).

December 12, 2012 Comment: The dimension of the diagonal parking spaces are not consistent with existing diagonal parking spaces located on Commercial Street. The spaces seem to be longer. I'll need to coordinate with DPS staff.

**Status: It is suggested (not recommended) that the parking space dimensions match those of other parking spaces on Commercial Street. I'm comfortable if the parking space dimensions remain unchanged if the alignment of the westbound travel lane on Commercial Street is not off-set or requires vehicles to shift.**

\* November 9, 2012 Comment: For on-street parking changes, a city council approval will be required. The applicant will be responsible for providing materials in support of the Parking Schedule change.

December 12, 2012 Comment: I have no further comment.

\* November 9, 2012 Comment: For development projects in the area, the City has been requesting monetary contributions towards the installation of a traffic signal at the Commercial Street/High Street intersection. I will provide and estimate of the contribution amount in the future.

December 12, 2012 Comment: The contribution calculation is based upon the number of trips being generated by the project at the subject intersection. The contribution amount is \$12,500.00

\* November 9, 2012 Comment: The applicant should provide details on how truck deliveries will be accommodated.

December 12, 2012 Comment: This comment is outstanding.

January 9, 2013 Comment: We are concerned that the provision of a truck loading area on the adjacent lot is not likely to be used by delivery trucks due to the difficulty in hauling goods to the site. We are also concerned about the long-term viability of the proposed location given future development possibilities. Additional comments are noted below.



- o The applicant should provide details on where deliveries will enter the building.
- o The City is comfortable if delivery trucks park in the Commercial Street median. This practice occurs along other sections of Commercial Street. If considered to be an option, coordination with delivery trucks will be required so that the proposed crosswalk is not blocked.
- o The City does not want delivery trucks blocking Maple Street given special traffic circulation needs for the future Baxter Charter School.

**Status: A condition of approval is being included on vehicle deliveries and I am comfortable with the noted details.**

\* November 9, 2012 Comment: I have reviewed the TDM and generally find the program to be acceptable. Some of the details of the program need to be clarified/expanded, but overall the approach is acceptable. I'll provide clarifying comments in the future. I would note that the traffic impact study will assume an evaluation of impacts assuming a 10% reduction in vehicle trips based upon the implementation of TDM strategies. Accordingly, the program should credibly reduce traffic by 10%.

December 12, 2012 Comment: The TDM Plan offers many strategies for meeting the projects target traffic reduction goal, although many are noted to be the responsibility of the hotel in terms of implementation. I would suggest that the applicant identify the strategies that they are committed to be implemented when the project is completed, so that a fair assessment trip reductions strategies can take place.

**Status: I have reviewed the original October 22, 2012 TDM Plan and the response to comments letter prepared by John Adams dated January 9, 2013. I find their TDM Plan to be acceptable. It should be noted that the acceptable TDM Plan includes the specific actions contained in the January 9, 2013 letter and the Monitoring Information and Updating the Plan details contained in the October 22, 2012 TDM report.**

\* December 12, 2012 Comment: I have reviewed the traffic study and find the methods and conclusions to be acceptable. In summary the project is not expected to negatively impact traffic conditions in the vicinity of the project. There is one outstanding item that needs to be evaluated. The applicant should conduct an evaluation of queue spillback from the Commercial Street/Center Street intersection and whether blockage of the project driveway will be problematic and if improvements are recommended.

**Status: The applicant has provided updated analysis as it relates to blockage of the driveway. It was noted that vehicles in the eastbound through lane from the Center Street intersection will block the driveway. Following a review of area conditions, it is my opinion that the driveway should function safely. Vehicles turning left from the site will have the center lane to wait in (the applicants analysis indicates the left-turn lane queue from Center Street does not block the driveway), thus not blocking westbound Commercial Street traffic. I would also note that if left-turn movements become difficult, alternative routing to Maple Street and York Street. No action is required by the applicant.**

\* December 12, 2012 Comment: The proposed Baxter Charter School project will be upgrading pedestrian facilities at the York Street/Maple Street intersection and therefore no action is required by this applicant.

**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  
[T.Y. Lin International]T.Y. Lin International  
12 Northbrook Drive  
Falmouth, ME 04105