

**ADDENDUM**

**PLANNING BOARD REPORT**

**PORTLAND, MAINE**

Residential townhouse - 6 unit condominium

133 York Street

Level III Site Plan and Subdivision

Project ID 2013-187

133 York, LLC, Applicant

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| Submitted to:  Portland Planning Board  Public Hearing Date: January 28th, 2014 | Prepared by: Jean Fraser, Planner  Date: January 24th, 2014  Addendum to Planning Board Report # 50-13  Report #2013-187 1.28.2014 |

1. **Introduction**

The Planning Board held a hearing on November 12, 2013 to consider the Level III Site Plan and Subdivision application for the construction of a 6 unit residential building at 133 York Street. The Hearing was based on the attached Hearing Report #50-13 (Attachment X) as well as evidence and comment by the applicant and the public. The Board voted 6-1 (Dean opposed) to table the final vote to a future date to be agreed between the applicant and staff.

This Addendum to Report #50-13 has been prepared to update on the revisions the applicant has made to the proposals to address the concerns raised at the November hearing. Except where stated in this Addendum, all other information and review comments in original Report remain unchanged. A revised motion with potential conditions is included in this Addendum.

This Hearing has been noticed to 555 neighbors and interested parties, and the public notice appeared in the *Portland Press-Herald* on January 20th and 21st, 2014. In addition to the public comments received up the date of the November hearing, a further X public comments have been received that….

1. **BACKGROUND**

There were a number of unresolved issues identified by the Planning Board that the applicant has sought to address in the recent submissions (Attachments XXX to this Addendum):

* Architectural design, especially the massing of the north elevation
* Impact on and communication with immediate neighbors
* Need for greater certianty on how condominium and site plan/subdivison conditons would be enforced eg re construcion management
* Resolution of a way to retain cobblestones near drive entrance
* Confirmation of fencing/screening along southern property line
* Pole and utilities on northern boundary

The applicant has submitted a letter confirming what action they have taken in respect of these potential conditions (Attachment X). Staff comments are structured to address the original list of potential conditions and then the other comments and concerns that arose at the November hearing.

1. **STAFF UPDATE ON THE POTENTIAL CONDITIONS OF APPROVAL CONTAINED IN**

**REPORT #50-13**

1. **Subdivision: [**Potential conditions of approval as in Report #50-13]
   * 1. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Corporation Counsel, and Department of Public Services and include detailed references to easements, snow removal, green wall maintenance, Condominium Association documents and relevant conditions; and

***Update:*** The applicant has submitted an amended draft Subdivision Plat (Plan X). Staff have requested that key issues and features of the proposal be identified and noted on the plat eg snow removal. The plat as drafted shows these by reference to other plans and documents but does not specify the limitations directly. Where there are important limitations that would apply in the long term should be explicitly stated. Survey information is also required to be added (Attachment X).

* + 1. That the Condominium Association documents shall reference the Stormwater Maintenance Agreement and Stormwater Inspection and Maintenance Plan, adequate snow removal and the ongoing maintenance of the green wall, to be reviewed and approved by Corporation Counsel. The documents shall also address the relevant conditions of approval and be finalized to the satisfaction of the Corporation Counsel prior to the recording of the Subdivision Plat; and

***Update:*** The applicant has submitted revised Condominium association documents…..

* + 1. **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 construction stormwater management plan and sediment & erosion control plan based on City standards and state guidelines. A maintenance agreement for the stormwater drainage system** as described in Attachment L and W of this Report, shall be approved by Corporation Counsel and Department of Public Services, ands**ubmitted and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services; and**

***Update:*** This condition still applies.

* + 1. **That the applicant shall ensure that tree preservation/protection measures are undertaken in accordance with the comments of the City Arborist dated 9.6.2013 and 11.1.2013, and that the Condominium Association documents shall include responsibilities for ongoing tree preservation measures; and**

***Update:*** The applicant has noted the tree preservation requirements on the site plan but a condition is still required to identify which trees are to be preserved on the plat and to ensure that the plat and the Association documents specify the requirements in more detail.

* + 1. **That the applicant shall add a note on the Subdivision Plat that the Condominium Association shall be responsible for the maintenance of the green wall, both the structure and the planting, and that any damage from vehicles backing into green wall shall be repaired within one week; and**

***Update:*** The separate green wall has been removed and an agreement is understood to have been reached between the applicant and the owners of the York Street Condominiums to add slats to their existing fence and plant hydrangea on the applicants side of the fence. The plans do not reflect this agreement and the agreement has not been submitted…

* + 1. That the Subdivision Plat shall include a note confirming the Snow Removal Plan details and that the Condominium Association is responsible for this being undertaken in a timely fashion.

***Update:*** The…

1. **Site Plan Review** [Potential conditions of approval as in Report #50-13]:
2. That the applicant shall submit a revised proposal for the materials (including color scheme) and rear elevation articulation of the proposed building, for review and approval by the Planning Authority prior to the issuance of a building permit; and

***Update:*** The applicant has met with staff and both immediate abutters as they reconsidered the design, with the main focus on the back elevation. The Dedign Review memo in Attachment X outlines the stages in the discussions and how the design evolved to the final version in Plans X and X.

Staff do not have any serious concerns regarding the final design, but request three minor revisions to refine the latest design:

[cut and paste from design memo]

1. That the applicant shall submit a revised Landscape Plan that addresses the 11.1.2013 City Arborist comments in respect of planting material and green wall, for review and approval by the Planning uthority and City Arborist prior to the issuance of a building permit; and

***Update:*** The applicant has not revised the pot sizes and a similar conditon…

1. That the applicant shall obtain easements or temporary construction agreements for all work outside the boundaries of the site; these (if any) shall be provided to the Planning Division prior to the issuance of a building permit; and

***Update:*** The applicant has met with neighbors and submitted draft easements. Staff have not received confirmation from the neighbors regarding the content but recommend that the approval could be conditioned on receipt of the final signed and recorded easement agreements.

1. That the applicant shall submit a Construction (traffic) Management Plan for activities in York Street, for review and approval prior to the issuance of any City permits.  In view of the high level of traffic on York Street, it is very likely that construction activity will not be allowed during peak traffic time periods; and
2. ***Update:*** The…
3. That the applicant shall submit a more detailed Construction Plan for the area to the north side and rear of the site that includes the items listed in the Engineering comments dated 11.7.2013 (and identify the method of supervision) and submit the plans for the temporary metal sheeting and associated excavation stamped by a professional engineer, all for review and approval by the Planning Authority prior to the issuance of a demolition permit for the existing building; and
4. ***Update:*** The…
5. That the applicant shall submit a revised Site Plan that relocates the bicycle parking rack so that it does not impede access to parking spaces, for review and approval prior to the issuance of a building permit; and
6. ***Update:*** The…
7. That the FDC connection shall be located at York Street; and
8. ***Update:*** The…
9. That the Condominium Association documents shall include the requirement that any external condensers for heating or cooling units shall be located out of sight of neighbors and include sound baffling so that the sound level at the property line is at or below 45dBA between 10pm and 7am, and below 50 dBa between 7am and 10pm; and
10. ***Update:*** The…
11. That the applicant ensure, at their cost, that the electrical lines (from Park Street into the building to be demolished) are removed prior to the issuance of a Demolition Permit; and that the pole is removed prior to the issuance of a Certificate of Occupancy. If the pole and light are to remain to serve the parking lot at McCormick Place, the applicant shall provide evidence that the cost of the electricity to serve the retained light is being borne by a private party and not the City; and
12. ***Update:*** The…
13. That the applicant shall submit a revised photometric plan, prior to the installation of the garage lighting and bollard lighting, that shows that the light levels from revised ceiling mounted lights within the parking garage area and the proposed bollards along the drive access meet the standards set out in Section 12 *Site Lighting Standards* in the City’s Technical Manual.
14. **COMMENTS OF THE PLANNING BOARD at NOVEMBER HEARING**

**Need for greater certianty on how condominium and site plan/subdivison conditons would be enforced eg re construcion management**

****Cobbles:**

1. **Staff Recommendation**

**IX. MOTIONS FOR THE BOARD TO CONSIDER**

1. **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 2013-187 (Addendum to Report #50-13) for 133 York Street 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) Section 14-526 (b) (2) (b) (iii) Street Trees to allow for a contribution of $600 to the City’s Street Tree Fund to be substituted for the provision on site of three of the required street trees.
2. The Planning Board (waives/does not waive) Technical Design Standard Section 1.14 *Parking Lot and Parking Space Design* to allow a drive aisle of less than 24 feet , as shown on Plan 3 subject to the requirement that the bike rack be relocated.
3. **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 2013-187 (Addendum to Report #50-13) for 133 York Street relevant to the Site Plan and Subdivision reviews and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds the following:

1. **Subdivision:**

That 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:

Potential conditions of approval:

* + 1. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Corporation Counsel, and Department of Public Services and include detailed references to easements, snow removal, green wall maintenance, Condominium Association documents and relevant conditions; and
    2. That the Condominium Association documents shall reference the Stormwater Maintenance Agreement and Stormwater Inspection and Maintenance Plan, adequate snow removal and the ongoing maintenance of the green wall, to be reviewed and approved by Corporation Counsel. The documents shall also address the relevant conditions of approval and be finalized to the satisfaction of the Corporation Counsel prior to the recording of the Subdivision Plat; and
    3. **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 construction stormwater management plan and sediment & erosion control plan based on City standards and state guidelines. A maintenance agreement for the stormwater drainage system** as described in Attachment L and W of this Report, shall be approved by Corporation Counsel and Department of Public Services, ands**ubmitted and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services; and**
    4. **That the applicant shall ensure that tree preservation/protection measures are undertaken in accordance with the comments of the City Arborist dated 9.6.2013 and 11.1.2013, and that the Condominium Association documents shall include responsibilities for ongoing tree preservation measures; and**
    5. **That the applicant shall add a note on the Subdivision Plat that the Condominium Association shall be responsible for the maintenance of the green wall, both the structure and the planting, and that any damage from vehicles backing into green wall shall be repaired within one week; and**
    6. That the Subdivision Plat shall include a note confirming the Snow Removal Plan details and that the Condominium Association is responsible for this being undertaken in a timely fashion.

1. **Site Plan Review**

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 condition(s) of approval:

Potential conditions of approval:

1. That the applicant shall submit a revised proposal for the materials (including color scheme) and rear elevation articulation of the proposed building, for review and approval by the Planning Authority prior to the issuance of a building permit; and
2. That the applicant shall submit a revised Landscape Plan that addresses the 11.1.2013 City Arborist comments in respect of planting material and green wall, for review and approval by the Planning Authority and City Arborist prior to the issuance of a building permit; and
3. That the applicant shall obtain easements or temporary construction agreements for all work outside the boundaries of the site; these (if any) shall be provided to the Planning Division prior to the issuance of a building permit; and
4. That the applicant shall submit a Construction (traffic) Management Plan for activities in York Street, for review and approval prior to the issuance of any City permits.  In view of the high level of traffic on York Street, it is very likely that construction activity will not be allowed during peak traffic time periods; and
5. That the applicant shall submit a more detailed Construction Plan for the area to the north side and rear of the site that includes the items listed in the Engineering comments dated 11.7.2013 (and identify the method of supervision) and submit the plans for the temporary metal sheeting and associated excavation stamped by a professional engineer, all for review and approval by the Planning Authority prior to the issuance of a demolition permit for the existing building; and
6. That the applicant shall submit a revised Site Plan that relocates the bicycle parking rack so that it does not impede access to parking spaces, for review and approval prior to the issuance of a building permit; and
7. That the FDC connection shall be located at York Street; and
8. That the Condominium Association documents shall include the requirement that any external condensers for heating or cooling units shall be located out of sight of neighbors and include sound baffling so that the sound level at the property line is at or below 45dBA between 10pm and 7am, and below 50 dBa between 7am and 10pm; and
9. That the applicant ensure, at their cost, that the electrical lines (from Park Street into the building to be demolished) are removed prior to the issuance of a Demolition Permit; and that the pole is removed prior to the issuance of a Certificate of Occupancy. If the pole and light are to remain to serve the parking lot at McCormick Place, the applicant shall provide evidence that the cost of the electricity to serve the retained light is being borne by a private party and not the City; and
10. That the applicant shall submit a revised photometric plan, prior to the installation of the garage lighting and bollard lighting, that shows that the light levels from revised ceiling mounted lights within the parking garage area and the proposed bollards along the drive access meet the standards set out in Section 12 *Site Lighting Standards* in the City’s Technical Manual.

**ATTACHMENTS:**

**Attachments to the Addemdum Report**

* 1. Staff e-mail re cobbles
  2. Traffic Engineering Review comments
  3. DPS (David Margolis-Pineo) comments
  4. City Arborist comments
  5. **PUBLIC COMMENTS since November Hearing**

1. Kaplan
2. Gilman & Flint (29 Park Street s/f)

**Applicant’s Submittal**

**For this Hearing**

1. Cover Letter and Application 7.24.2013
2. Revised draft condominium documents
3. Utility Construction Plan
4. Lighting specifications and photometrics

**Final Plans**

* + - 1. Boundary Survey
      2. Subdivision Recording Plat
      3. Site Plan
      4. Existing Conditions and Demolition Plan
      5. Grading and Utilities Plan
      6. Erosion Control and Landscape Plan
      7. To 9. Details

1. Tree Filter Detail
2. To 15. Floor plans
   * + 1. To 20. Elevations

21. Horizontal and Vertical Boundaries

22. Section across site

23. Roof Cornice Profile

24. to 28. Aerial views of exterior (renderings)