



# 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

Submitted to: Portland Planning Board Public Hearing Date: November 12 <sup>th</sup> , 2013	Prepared by: Jean Fraser, Planner Date: November 8 <sup>th</sup> , 2013 <b>Planning Board Report # 50-13</b>
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## I. INTRODUCTION

133 York, LLC has submitted a Level III Site Plan and Subdivision application for the construction of a 6 unit residential building on a 7,483 sq ft “urban infill” site at 133 York Street. The site is currently occupied by a dilapidated 2-unit residential structure. The site is located behind the existing brick 12-unit apartment building at 129 York Street and adjacent to the recently constructed Harborview Townhouse condominium development.

The parcel has an existing narrow pedestrian access from York Street, immediately to the west of the brick apartment building. The proposed building is located on the backland part of the site about 100 feet from York Street, and comprises 3 stories over parking.

The site is within the R-6 zone but cannot apply reduced lot dimensions under the R-6 “small residential lot development” as the lot is not vacant. It is subject to the R-6 design review.

The applicant has held two Neighborhood Meetings in May and August where neighbors raised concerns about the loss of the large tree in one corner, loss of privacy and views, and the increase in height over the existing building (Notes in [Attachment I](#)). The Planning Division has received 9 public comment letters since the Workshop: all objecting to the project based on the loss of trees, access and snow removal issues, height, boundary treatment, and that the proposed design and materials do not integrate with the (historic) neighborhood.



This Workshop was noticed to 555 neighbors and interested parties, and the public notice appeared in the *Portland Press-Herald* on November 4<sup>th</sup> and 5<sup>th</sup>, 2013.

### Required reviews and required waivers

Applicant's Proposal	Applicable Standards
New structure of 6 dwelling units	Subdivision Review: Subdivision Standards - Section 14-497
Multifamily building of 9,424 square feet floor area	Level III Site Plan Review: Site Plan Standards – 14-526 and R-6 and Multi-family design reviews
Proposed building is less than 100 feet from the Historic Preservation District to the north (other side of Harborview Terrace)	Ordinance 14-526 (d) 5 b requires that it be generally compatible with the major character-defining elements of the portion of the district nearest the proposed development.
Waiver requested for the six street trees required, due to limited right of way space.	Ordinance Subdivision 14- 499 <i>Required Improvements</i> and Technical Standard 4.6.1- requiring 1 tree per unit to be located in the Right of Way.
Waiver required for parking drive aisles that are approximately 20 ft (to garage support columns).	Technical Standard 1.14 <i>Parking Lot and Parking Space Design</i> require a drive aisle of 24 feet width for 90 degree parking.

**II. PROJECT DATA**

<i>SUBJECT</i>	<i>DATA</i>
<b>Existing Zoning</b>	R-6
<b>Existing Use</b>	2-unit residential building
<b>Proposed Use</b>	6-unit new building; each unit 2 bedrooms
<b>Parcel Size</b>	7483 sq ft
<b>Impervious Surface Area</b>	
--Existing	1918 sq ft
--Proposed	5570 sq ft
--Net Change	3652 sq ft
<b>Total Disturbed Area</b>	Approx. 7400 sq ft
<b>Building Footprint</b>	
--Existing	1918 sq ft
--Proposed	2335 sq ft
--Net Change	417 sq ft
<b>Building Floor Area</b>	
--Existing	Not known
--Proposed	9424 sq ft
<b>Parking Spaces</b>	6, under dwellings
<b>Bicycle parking Spaces</b>	2
<b>Proposed Paved Area</b>	3235 sq ft
<b>Estimated Cost:</b>	\$1,225,000
<b>Land uses in the vicinity</b>	Single and multi-family residential

**III. EXISTING CONDITIONS**

The proposal site is located on the north side of York Street between Park and High Streets, approximately 500 feet east of the Casco Bay Bridge intersection and approximately 250 feet west of the intersection of York Street and High Street. The buildable part of the site is set back behind the adjacent 3 story apartment building that fronts onto York Street, and about 5 feet above the amenity area associated with this apartment building (see Survey and Existing conditions, in [Plans 1 & 4](#)).

There are 4 upper rear decks on the apartment building that face towards the site.



Existing building on the site



As viewed from York Street



Within site, towards York Street

To the north the site abuts the parking area for the McCormick Place (5 unit) condominiums, which is about 5 feet above the level of the proposal site and several feet from the existing building. Immediately to the west there is a large single family house (see photo right) with one small window facing the proposal site.



Looking west from within the site (tree to be removed)



Within Harborview Terrace towards site



Harborview Terrace western side

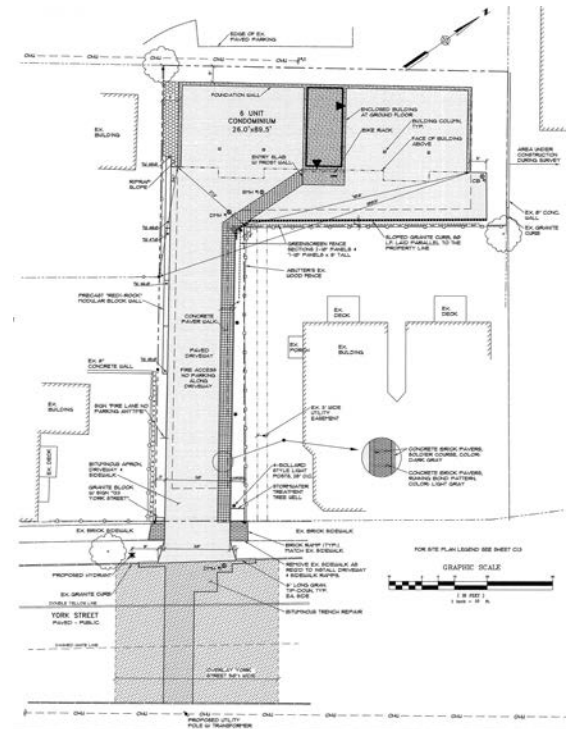
**IV. PROPOSED DEVELOPMENT**

The proposals, including floor plans and elevations, are included in the final Plan set and have been revised to address Board, staff and neighbor concerns. Changes since the Workshop include:

- Green wall introduced along southeast boundary (side towards York Street);
- Driveway now asphalt apron and no cobbles (as requested by DPS);
- Underground electrical and gas service from York Street;
- Revised planting near York Street;
- Revised side and rear elevation design.

The proposed building has 4 levels, with parking on the lowest level and sunk about 5 feet below grade (so it will be at about the same level as the rear amenity space for the brick apartment building). The absolute overall height is approximately 30-41 feet, 6-8.5 feet higher than the existing building at the west end and about 10 feet higher at the east end.

The new structure is set back 5 feet from the west and north boundaries, 11 feet from the east boundary (Harborview) and 16 feet from the south boundary.



Vehicle access is proposed from York Street via a new 16 foot wide drive with 4 foot sidewalk alongside (flush). As the drive gets near the building it will below the existing grade to give access to the sunken parking area and remove the existing vegetated grade change along the south boundary.



An 8 foot high green wall planted with climbing hydrangea (see location in [Plans 3 and 6](#) and detail in [Plan 8 and Attachment S](#)) as a screen between the proposed development and the existing condos that face the site (beside the existing fence shown in the photos). At the rear of the proposed building the finished grade will be about the same as the abutting parking lot, and a shrub screen is proposed along that boundary. Small scale landscaping including some trees is proposed along the east side of the new building and three trees are proposed along the new driveway ([Plan 6](#)).

## V. PUBLIC COMMENT

The applicant held two neighborhood meetings attended by a total of 16 people and the notes are included in [Attachment I](#). Comments at the Planning Board Workshop were similar and included concerns regarding tree removal; design does not fit in; loss of views; construction impacts; loss of privacy/screening; erosion and drainage; snow removal; and potential issues with air conditioners. The Planning Board asked the applicant to work with neighbors to resolve issues.

The applicant has submitted two sets of e-mail exchanges with neighbors and two letters to staff that address neighbors comments (staff forwarded the neighbor comments received so that they could be addressed) ([Attachment T](#)).

A total of 9 letters have been received and are included in [Attachment 20](#), all raising concerns regarding the proposal. It should be noted that some plans were revised on 10.21.2013 (and sent to neighbors) so some of these comments may not take account of the revisions. The key issues are:

- Height
- Design
- Impact of construction
- Screening
- Impact on trees
- Vehicle maneuvering
- Potential Air conditioners

Reviewers have taken account of the comments as part of the reviews presented in this report (as discussed on other sections) and potential conditions have been included to address most issues.

Many of the McCormick Place neighbors have raised the question regarding potential damage to their vehicles or property. Staff has discussed this with the Legal Department and confirm that the Planning Board is limited in its ability to address these concerns (see [Attachment 17](#)). However, the Board is recommended to ensure that the proposed demolition and construction techniques meet engineering standards and a potential condition of approval is recommended to this effect. Similarly, the applicant will need to show appropriate agreements or temporary easements where the work is likely to impact neighbor's property and trees that are on the property line.

Regarding the question of air conditioners, the City does not control the placement of small window air conditioners but the introduction of condensers outside raises site plan issues. Therefore staff has included a potential condition regarding this kind of equipment to mitigate potential effects.

## **VI. RIGHT, TITLE AND INTEREST AND FINANCIAL/TECHNICAL CAPACITY**

The proposed demolition and construction associated with the building development is practically on the site boundaries to the west and northwest. The construction plan (Attachment X) confirms an approach that avoids the need for a construction easement on the uphill sides (McCormick Place and Gilman/Flint) and Plan 4 confirms that the Gilman/Flint existing fence will remain. In the event that work needs to take place on (or affects) property outside of the proposal site, a suggested condition requires that in this case temporary agreements or construction easements would need to be obtained prior to the issuance of a building permit.

The application (Attachment B) refers to the fact that the site benefits from a sewer easement across the Harborview Flats property and this is not referenced on the Boundary Survey nor the draft Subdivision Plat.

## **VII. STAFF REVIEW**

### **A. ZONING ASSESSMENT**

The proposed subdivision is within the R-6 Residential Zone.

Marge Schmuckal, Zoning Administrator, has provided a determination that the project meets the required setbacks and meets the R6 zoning dimensional requirements (Attachment 4). She requested clarifying information on the height dimensions, which were provided in Plans 16 and 17. Ms Schmuckal confirms (Attachment 15):

*I have reviewed the most current plans that have been submitted for building height. Section 14-139(a)7 of the R-6 zone restricts the maximum building height to 45'. The applicant has shown the height from the lowest grade to the top of the roof beam to be 40' - 5 1/4". This is the height BEFORE averaging grades, which would lower the "official" height of the structure. The 40' - 5 1/4" is well under the maximum height allowed by Ordinance. The building height is ok for the zoning analysis*

### **B. SUBDIVISION STANDARDS**

#### 14-496. Subdivision Plat Requirements

The applicant has submitted a draft Subdivision Plat (Plan 2) and draft Condominium documents (Attachment D). The potential conditions of approval suggest amendments to both documents and further review by staff.

#### 14-497. General Requirements (a) Review Criteria

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

An Erosion Control Plan has been submitted (Plan 5) and is acceptable (Attachment 3).

2. Sufficient Water Available (Section 14-497 (a) 2 and 3)

A letter from the Portland Water District dated 5.16.2013 (Attachment J.1) confirms that available of water.

3. Will Not Cause Unreasonable Traffic Congestion (Section 14-497 (a) 5)

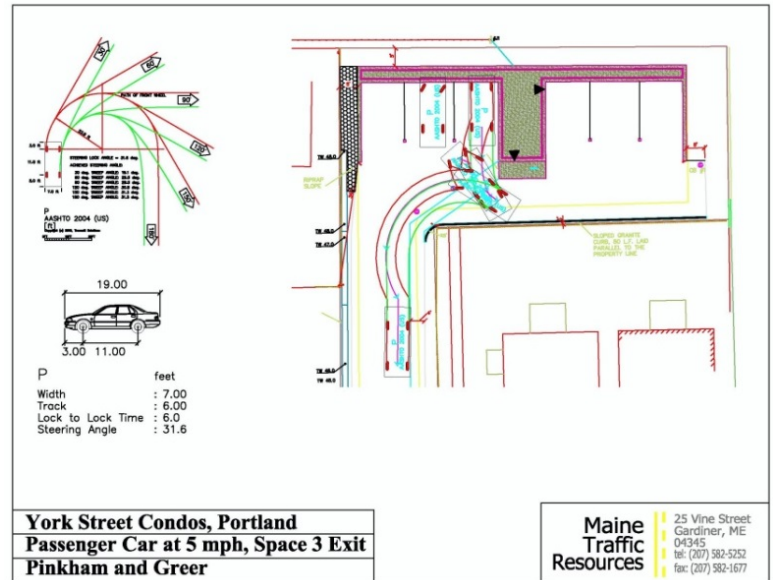
The proposals originally included a new 20 foot wide driveway to access the parking beneath the new building. The proposals have been revised to address the comments from Tom Errico (Attachment 2) that requested a pedestrian way between the York Street sidewalk and the new building. The current proposals provide a 16 foot vehicle way and an abutting and distinct 4 foot pedestrian way, which are flush to provide a 20 foot wide paved access route for fire apparatus. This is satisfactory to both Traffic and Fire Department reviewers (Attachments 14 and 10).

The size and placement of the building results in a narrow parking aisle leading to the 6 parking spaces located underneath the building. This potentially could cause congestion if the layout encouraged residents to back out of the drive onto York Street, which is heavily trafficked at this location near the bridge to South Portland. For this reason the Traffic Engineering Reviewer, Tom Errico, requested turning templates to illustrate the feasibility of access/maneuvering (Attachment 2). These were submitted and two of the parking spaces appeared

difficult to access (see [Attachment Y](#); an example is at right); Mr Errico wanted to confirm the adequacy of maneuvering space, as he has commented ([Attachment 14](#)):

- Access and egress movements into the garages appear difficult given the narrow pavement area. The applicant shall provide turning template graphics for a standard passenger car illustrating the ability of vehicles to adequately circulate on-site.

Status: The applicant has provided the requested turning template graphics. Given site constraints, I also requested that the applicant provide a simulated site layout in a parking area so that I could determine if vehicles could access/egress the parking garages. Based upon the field study, some garages will require multiple maneuvers (k-turns) to enter and exit the garages. The site is very constrained and the ease in which vehicles can make their intended maneuver will be a function of the design vehicle. My field simulation was based upon a Subaru station wagon and this represents a mid-size vehicle. Large Single-Unit Vehicles (SUV) will have greater difficulty.



With all that said, I do support a waiver from our technical standards for parking lot aisle width dimensions. The waiver is suggested given the unlikelihood that vehicles will back down the driveway into York Street. There is a significant distance between the garages and York Street, and thus feel that all maneuvers will occur on-site. I would note that the bicycle rack should be relocated so that it does not impede circulation. Additionally, it will be very important that snow removal/maintenance is effective so that snow does not further constrain the site.

The motion for the Board to consider includes this waiver.

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)

The proposals propose to manage stormwater impacts by collecting the stormwater and directing it to a tree filter system, which also allows for some quality treatment. The applicants have provided revised plans and supplementary stormwater information ([Attachment W](#)) and these are considered satisfactory ([Attachment 12](#)). The Department of Public Services considers the storm drain system in York Street is adequate to handle the proposed project drainage and has no comments regarding the proposed sewer connections.

5. Scenic Beauty, Natural, Historic, Habitat and other Resources (Section 14-497 (a) 8)

The impact on trees in the vicinity of the development is explained in [Attachment M](#) and shown on [Plan 3](#). The applicant owns the trees to be removed, as indicated on the Survey (Plan 1). The loss of two existing substantial trees within this dense urban area is regrettable, but the ordinance allows for this as long as there is tree replacement.

The Survey ([Plan 1](#)) shows that the tree on the north to be preserved is on the site boundary. The proposals include the preservation of this tree, and another large tree (willow) near the east corner will be protected. The City Arborist, Jeff Tarling, has reviewed the proposals and met with the applicant and neighbors on site; he considers the proposals are satisfactory ([Attachment 11](#)). His comments include some detailed recommendations that should be followed in respect of the trees to be preserved/protected and these are referenced in a suggested condition.

**Street Trees**

The street tree requirement would be one tree per unit, or 6 street trees, in or near the ROW. The applicant has requested a waiver citing the limited space in the ROW. There are 3 trees proposed to be planted along the entrance drive which may be counted as street trees, so staff suggest that the waiver is supported subject to a contribution to the City's Street Tree fund for three (3) trees.

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

The applicant has referred to the Comprehensive Plan as related to housing policies (Attachment B) and the project is compatible with Comprehensive Plan goals and policies.

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

A letter from Milk Street Capital LLC dated 6.26.2013 confirming financial capability is included at Attachment G.

C. **SITE PLAN STANDARDS** 14-526 Requirements for approval

(a) *Transportation*

- **Impact on Surrounding Street Systems and Access and Circulation-** see Subdivision Review.

- **Construction (Traffic) Management Plan**

The proposal has been revised to provide underground utility connections from York Street (Plan 5) and this will entail street opening in York Street. Because of the heavy traffic at peak hours in this location the Traffic engineering Reviewer has requested a condition requiring a construction (traffic) management plan and notes that “given the high level of traffic on York Street, it is very likely that construction activity will not be allowed during peak traffic time periods.”

- **Loading and Servicing**

The proposal is a small residential development and is not expected to generate much servicing traffic. The Ordinance standard on this issue refers to “All developments served by delivery or other service vehicles” refers to commercial developments and historically has not been applied to small residential developments. The Traffic Engineering reviewer has confirmed that the standard would not apply in this case (Attachment 14).

- **Sidewalk and ROW**

The Department of Public Services has commented that a note needs to be added to the plans requiring that work in the ROW meets City standards, and that according to the City’s materials policy the driveway apron should be asphalt and not brick as proposed (Attachment 6). The proposal has been revised to address this comment, and the cobbles have been omitted from the proposals because the existing cobbles are within the ROW and the applicant will be required to give those cobbles to the City when the construction begins.

- **Public Transit Access**

The public transit requirements do not apply to this project.

- **Parking**

There are 6 parking spaces to meet zoning requirements and these are located in the “sunken” level underneath the units.

- **Bicycle Parking (also Motorcycle and Scooter parking)**

The proposals include 2 bicycle parking spaces at the rear of the existing building, which meets the ordinance standard of 2 bicycle spaces per 5 vehicle spaces.

- **Snow Storage**

An “Off-Site Snow Removal Plan” is included on Plan 4 and staff consider this is acceptable. The importance of timely snow clearance was part of the Traffic Engineer comments (Attachment 14), so the “Snow Removal Plan” is suggested to be highlighted on the Condominium Association documents and on the Subdivision Plat.

- **TDM -** does not apply to this proposal.

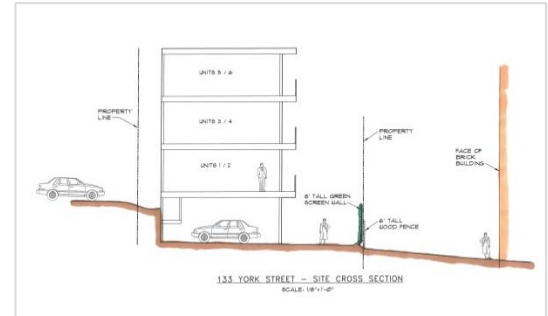
(b) *Environmental Quality Standards*

- **Preservation of significant Natural Features/Landscape Preservation-** see Subdivision Review (Scenic Beauty)

- **Site Landscaping and Screening**

The Landscaping Plan (Plan 6) proposes the planting of 7 trees: 4 at the eastern side of the building and 3 along the access drive. Bayberry planting is proposed near York Street and shrub planting is proposed along the rear boundary where the final levels will be raised.

An 8 foot tall “Green Wall” (location in Plans 3 and 6 and detail in Plan 8 and Attachment S) is proposed along the boundaries nearest to the large brick 12 unit building (on side towards York Street) to provide screening (also see section in Plan 22 and right).



On the west side there is a rip rap slope and no proposed planting, but that is similar to the existing condition with the existing building.

The City Arborist, Jeff Tarling, has commented (Attachment 11):

*a) **Landscape review** - The proposed development at 133 York Street presents challenges to meet standard landscape treatment due to the shape and constraints of the project site. The project does offer landscape amenities such as a green wall to provide screening along with two off-site tree planting locations if agreeable. The building footprint close to existing building site poses challenges to screen but improves on the long existing conditions. Two mature trees are close and will likely have impact during the construction process. Best practices in regards to tree protection are needed to prevent / reduce root zone damage.*

*b) **Landscape plant material: plant sizes - Condition**) shrub stock noted as "D" Clethra, "F" Deutzia, "J" Northern Bayberry, "K" Climbing Hydrangea, "L" Stephanandra shall all be #3 pot size minimum and tree sizes should be the following: "B" Flowering Crabapple 1.75-2" caliper, "C" Armstrong Red Maple 2" caliper. Items mentioned as "Existing", "G" Relocated Japanese Maple (#5 pot size), "H" Relocated Lilac (3-4'H) should also have these sizes as replacements if the relocation is not successful. (Too often good intent to save plants through construction are less than successful).*

*c) **Green wall** - the proposed project use of a green wall will help screen / buffer the adjacent building. The green wall plant type: Climbing Hydrangea is slow growing, and thus the proposed 1 gallon pot size much to small to be effective for many years... recommendations & condition the green wall plant sizes must be #3 pot & #5 pot sizes alternating minimum to provide a good start for the green wall. (from 11.4.2013 comments): A solid screen such as a fence, would not, in my view, improve the proposed.*

A potential condition of approval requires the revision to the Landscape Plan to incorporate these recommendations.

- **Street Trees** - see subdivision Review.
- **Water quality, Stormwater Management and Erosion Control**  
As discussed above under **Subdivision Review**.

(c) **Public Infrastructure and Community Safety Standards**

- **Consistency with City Master Plans**  
The applicant has revised the materials where he new drive crosses the sidewalk to meet City requirements for materials in this area. The existing cobbles will be given to the City DPS as per DPS policy.



- **Public Safety and Fire Prevention**  
The Fire Department requested a NRPA 1 code analysis at the time of the Workshop and staff considered this a fundamental issue as the question of the length, width and radii of the drive access was at issue and potentially could impact the site layout substantially (Attachment 9).



An NFPA 1 Code Assessment was undertaken by a specialist and submitted in late October (Attachment Z). This confirmed that the proposed combination of drive and flush walkway met the standards, and that fire apparatus did not need to be able to drive around the bend in the drive. The Fire Department is satisfied with the proposals subject to the location of the FDC connection being at York Street (Attachment 10).

- **Public Safety**

The Crime Prevention through Environmental Design (CPTED) standards in the site plan ordinance address the principles of natural surveillance, access control and territorial reinforcement so that the design of developments enhance the security of public and private spaces and reduce the potential for crime.

The backland nature of the site reduces the natural surveillance from the street but allows for some surveillance from nearby upper floor dwellings. Some low level lighting long the drive walkway was recommended by staff, and the applicant has introduced bollard lights along this walkway from York Street to the bend in the drive. Overhead garage lighting will provide lighting for the area by the entrance and parking spaces.

- **Availability and Adequate Capacity of Public Utilities**

All utilities are now proposed to be underground and from York Street (Plan 4) and this is acceptable subject to the submission of a Construction (Traffic) Management Plan as discussed above.

Capacity letters have been received for water, sewer and gas- see Attachment J.

The removal of the existing electrical wires and pole (with existing light- see photo in Public Comment Attachment 20g) that serve the building on the site that will be demolished, has not been resolved. Staff suggested that the applicant contact CMP to determine who is paying for the light but no information has been submitted. It is understood that the McCormick Place Condominium owners may like to have the light (and pole), but that still leaves the question who pays for the electricity for the light. As the resolution of this issue is likely to take some while, a suggested condition of approval suggests that it is the applicant's responsibility (including any costs) to resolve this issue and ensure the redundant utilities here are removed.

(d) **Site Design Standards**

- **Massing, Ventilation and Wind Impact**

The proposed new building is 26 feet wide by 89 feet long and rises a total of approximately 40 feet. The architect has compared the proposed absolute heights with those of the existing building in a letter (Attachment O and Plans 16 and 17). The footprint is 20% larger than existing and the height ranges from 6-8.5 feet higher than the existing building at the west end. The east end is a new structure and has been designed to be about 10 feet higher (Attachment O).

The proposed building is 12.5 feet from the single family brick dwelling (one window at 3<sup>rd</sup> floor) to the west (see their comments in Attachment X); 20 feet from the side elevation of Harborview Townhomes (decks and windows-to the east); and 43 feet (closest point) from the main wall of the 12 unit brick building to the south (decks and windows).

The applicable site plan standard is (14-526 (d) (1) b):

*The bulk, location or height of proposed buildings and structure shall minimize, to the extent feasible, any substantial diminution in the value or utility to neighboring structures under different ownership and not subject to a legal servitude in favor of the site being developed.*

- **Shadows/Snow and Ice Loading** - not considered an issue for this proposal.

- **View corridors**

The loss of views is not a review standard as the Portland Planning ordinances do not protect water views except where they are identified as a protected "view corridor" as per the "View Corridor Protection Plan" approved by the Portland City Council in 2001. Therefore the impact of the proposal on views may not be taken into consideration by the Planning Board. This site is not within a Protected View Corridor.

- **Historic Resources**

The Site Plan ordinance includes a requirement for projects to be compatible with the character-defining elements of the portion of the historic district nearest the proposal. The proposal is about 65 feet from the West End Historic District, measured across the Harborview Townhomes site.

The Historic Preservation Program Manager has considered the proposals and provided a Memo (Attachment 18) that notes that between this site and the core of the historic district there are relatively recent developments that are more modern in design and therefore the compatibility of this proposal is not a major issue in this case.



- **Exterior Lighting**

The proposal includes 4 ceiling lights with the parking area on the lowest level; the specification and resulting photometrics have been submitted in Attachment P. While this solution is preferable to pole lights, the photometrics show excessive light levels in the drive area located between the proposed building and the abutting lot and have not been revised for the final submission. The proposals have introduced bollard lighting along the drive walkway (Attachment R and Plan 3). While welcome, these bollard lights abut the 12 unit condo building. Staff suggest a condition requiring a revised photometric plan for both areas to document that the lighting meets the Technical Standards.

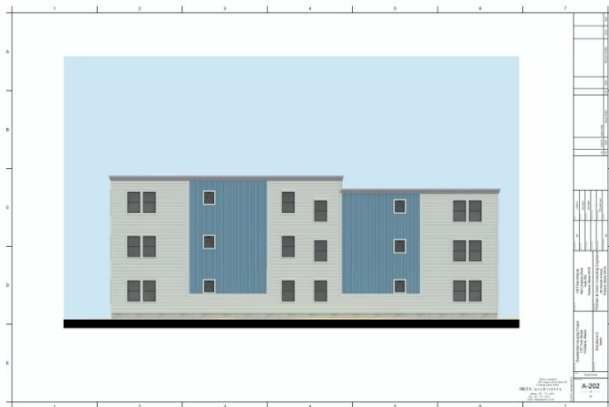
- **Noise and Vibration and Signage and Wayfinding** - These standards do not apply to the proposal.

#### D. ZONING RELATED DESIGN STANDARDS IN THE SITE PLAN ORDINANCE

##### R-6 Infill Development Design Principles and Standards

In September the applicant submitted a narrative outlining how the proposed design addresses the R-6 design standards (Attachment E) which has been updated and expanded in Attachment ZZ. Staff conducted a preliminary review based on black and white elevation plans and raised concerns regarding the front entrance treatment. At the Planning Board Workshop color elevations were presented and both the Planning Board and neighbors raised concerns over the materials (including the blue metal cladding) and the lack of articulation of the rear elevation which is overlooked by many neighbors.

##### **Final Proposals for rear elevation:** (see Plans 18, 19, 20, and 23-28)



Following the workshop staff met with the applicant's architect and understood that the decision regarding the colors and type of cladding materials was not going to be reconsidered but that further consideration could be given to other aspects. The final proposals reflect the input of staff regarding the front entrance, composition of cladding materials, number and size of windows and the use of a larger cornice on the rear elevation.

Staff have undertaken a design review which is summarized in the Design Review memo in Attachment 19. Staff have considered the character of the immediately surrounding area (photographs of these are attached to the Review Memo) and concluded that the overall scale and form of the proposed building generally meets the R6 standards regarding context, but that adjustments in cladding (particularly the color scheme) and detailing of the rear elevation are needed to meet the R6 Design Standards in respect of materials and articulation. A draft condition of approval regarding the materials and articulation has been included in the motion for the Board to consider.

#### Multi-family and Other Housing Types Design Standard

This design standard also applies to this proposal is outlined in sections below with associated staff review comments:

**(i) 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;*

Staff comment: The neighborhood is characterized by a variety of architectural styles and the proposed modern style is acceptable in principle. It is questionable whether the blue metal cladding “complements and enhances” the residential neighborhood, which is characterized by more subdued modern materials and greater articulation. However, the use of two different cladding materials is an attempt to break up the mass of the rear elevation.

*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: The proposal is a replacement of an existing building with some improvement to setbacks and a substantial increase in bulk. It is not well integrated in terms of landscaping, but, to the extent of available landscape space, introduces planting and screening along property lines except in one corner (north west).

*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: All 6 of the new units will have balconies.

*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 located underneath the units and is screened a ground level by the proposed “green wall” and existing slatted cedar fence, although there are no “garage doors”. The combination of the “green wall” and fence should limit the impact of headlights (although it is anticipated that most cars headlights would not face in that direction), but the effectiveness will depend on ongoing maintenance to ensure the structure is not damaged by nearby cars and that the planting remains robust. A potential condition of approval requires this responsibility of the Condominium Association to be clarified in the condominium Association documents.

This site is very constrained by its internal property dimensions, and a significant portion of the land area is contained within a neck of property extending to the street. Therefore the buildable portion is relatively small relative to the size of the building, hence highly constrained maneuvering and landscaping conditions. The architecture is of a modern and economical building form and cladding, which creates a contrasting visual image and mass within the neighborhood. The architect has attempted to mitigate these factors to some extent. We continue to have some concerns and suggest a condition of approval to require further architectural response to the issues raised related to the design standards.

### VIII. STAFF RECOMMENDATION

The proposed condo project appears to meet the minimum standards of review, subject to the proposed conditions.

The number of conditions is necessitated by several factors:

- The applicant did not address some of the previous review/neighbor comments nor update information as plans were revised;
- The very constricted site has raised concerns about the details, landscaping/screening and implementation along all boundaries;
- The limited revisions that have been made to the exterior design of the building since the Workshop.

Staff have requested additional information and undertaken a comprehensive review in light of the above.

### IX. MOTIONS FOR THE BOARD TO CONSIDER

#### 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 #50-13 for application 2013-187 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.

#### b. 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 # 50-11 for application 2013-187 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:

- i. 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
- ii. 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
- iii. 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, and submitted and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services; and
- iv. 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
- v. 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
- vi. 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.

## 2. 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:

- i. 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
- ii. 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
- iii. 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
- iv. 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
- v. 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

- vi. 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
- vii. That the FDC connection shall be located at York Street; and
- viii. 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
- ix. 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
- x. 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 Report**

##### **Workshop**

1. Staff e-mail prelim review comments 8.22.2013
2. Traffic Engineering Review comments 8.23.2013
3. Engineering Review comments 8.27.2013 as updated 9.6.2013
4. Zoning comments 8.30.2013
5. Staff e-mail update 8.30.2013
6. DPS (David Margolis-Pineo) comments 9.5.2013
7. Fire Department comments 9.6.2013
8. City Arborist comments 9.6.2013

##### **Hearing**

9. Staff e-mail re fundamental issues 10.9.2013
10. Fire Department comments 10.29.2013
11. City Arborist comments 11.1.2013 and 11.4.2013
12. Engineering Review comments 11.6.2013 (stormwater)
13. Engineering Review comments 11.7.2013 (rear boundary construction)
14. Traffic Engineering Review comments 11.7.2013
15. Zoning comments 11.8.2013
16. DPS (David Margolis-Pineo) comments (not received at time Report completed)
17. Legal Memo 11.7.2013
18. Historic Preservation Program manager Comments 11.7.2013
19. Design Review Memo and Context Photos 11.8.2013

#### **20. PUBLIC COMMENTS**

- a Kaplan (Notes of PB Workshop)
- b Morrison (125 York Street)
- c Kaplan (12 unit brick condos, York Street)
- d McGee (33 Park Street - Mc Cormick Place condo)
- e Browne (33 Park Street Mc Cormick Place condo)
- f Higgins (33 Park Street Mc Cormick Place condo)
- g Foley (33 Park Street Mc Cormick Place condo; Pres Condo Association)
- h Weiner (33 Park Street Mc Cormick Place condo)
- i Gilman & Flint (29 Park Street s/f)

**Applicant's Submittal**

**Workshop**

- A. Cover Letter and Application 7.24.2013
- B. Project Description
- C. Right, title and Interest
- D. Draft condominium documents
- E. Narrative re Design Principals and Standards
- F. Building code summary
- G. Financial Capability letter
- H. Technical Capability information
- I. Neighborhood meeting Information
  - a. May 17, 2013 meeting
  - b. August 30, 2013
- J. Utility letters of capacity
- K. Construction Plan
- L. Stormwater Management Report June 19, 2013
- M. Letter Pinkham and Greer re trees and Fire code 8.22.2013
- N. Letter Pinkham and Greer response to staff comments 9.3.2013
- O. Letter HKTA architects re design and height 9.5.2013
- P. Lighting specifications and photometrics

**Hearing**

- Q. Letter P&G & calcs response to Eng Rev comments 9.30.2013
- R. Vonda bollard cut Sheet
- S. Climbing hydrangea proposed for green wall
- T. Correspondence between applicant and neighbors
  - i. Susan Kaplan re impact on 12 unit brick condos /green wall etc
  - ii. McCormick condo association re construction easement
  - iii. To staff re McGee letter (f/w to neighbors)
  - iv. To staff re Foley letter (f/w to neighbors)
- U. Architects memo 10.1.2013
- V. Letter Pinkham & Greer re revised plans 10.21.2013
- W. Additions to Stormwater Report October 2013
- X. Construction Plan 10.21.2013
- Y. Parking Autoturn Templates 10.21.2013
- Z. Fire Code Review 10.23.2013
- ZZ. Updated Narrative re R6 Design Principles and Standards 11.7.2013

**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
- 10. Tree Filter Detail
- 11. To 15. Floor plans
- 16 To 20. Elevations
- 21. Horizontal and Vertical Boundaries
- 22. Section across site
- 23. Roof Cornice Profile
- 24. to 28. Aerial views of exterior (renderings)

## Jean Fraser - 133 York Street- Site Plan review update

**From:** Jean Fraser  
**To:** Tom Greer  
**Date:** 8/22/2013 5:35 PM  
**Subject:** 133 York Street- Site Plan review update  
**CC:** Barhydt, Barbara

Tom

I have not received all of the formal review comments and decided that a formal review letter would not be very helpful at this stage. Therefore I am writing to highlight several issues that have been raised and which will be discussed in more detail at the Development Review meeting next week.

**Zoning:** This project is subject to site plan review under the R-6 zoning requirements and is not considered a "small residential lot development" for the purposes of the zoning review. It is subject to the R-6 Design Principles and Standards as it is a "Multiple family and multiplex development in the R6 zone on lots of 10,000 square feet or less" (14-526) and a subdivision in respect of the six residential units and will be reviewed by the Planning Board.

Under the R-6 zoning there is an open space requirement and I am not sure if the project meets this; Marge Schmuckal is making a determination on this and Barbara Barhydt will forward her comments when they are available.

**Design Review:** Alex Jaegerman, Caitlin Cameron (Urban Designer) and I have reviewed the Narrative you submitted regarding the R-6 Design Principles and Standards. We generally consider that the proposals meet the principles and standards except regarding C-1 and F-6 (main entrance), where we recommend the central entrance at ground level be more strongly emphasized through the introduction of features such as transome windows, wider door, more robust canopy articulation. We would also like to know why one half of the building is higher than the other?

**Access:** Preliminary concerns from Tom Errico, the Traffic Engineering Reviewer (which covers pedestrian safety and parking) are (he may have further comments):

- There needs to be a dedicated pedestrian walkway from the York Street sidewalk to the front entrance;
- He would like to see turning templates to show that cars can get in and out of the parking spaces so they can exit going forward (ie the parking spaces at the north east end).

**Landscaping & Fire:** Thank you for the information you sent today which has been forwarded for review to Jeff Tarling and Chris Pirone respectively.

**Stormwater:** I have received confirmation that the approach you have taken is OK and there will be a few minor comments.

I will return to the office on Sept 3 (tuesday) and in my absence please contact Barbara Barhydt (874 8699) who will be coordinating in my absence.



**Jean Fraser - 133 York Street**

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**From:** Tom Errico <thomas.errico@tylin.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**Date:** 8/23/2013 10:27 AM  
**Subject:** 133 York Street  
**CC:** David Margolis-Pineo <DMP@portlandmaine.gov>, Katherine Earley <KAS@port...>

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Jean – I have reviewed the application materials and offer the following preliminary comments.

- Access and egress movements into the garages appear difficult given the narrow pavement area. The applicant shall provide turning template graphics for a standard passenger car illustrating the ability of vehicles to adequately circulate on-site.
- Pedestrian movements between the proposed building and York Street should be considered. I would note that I am flexible in the width of the driveway given the size of the development and accordingly a reduction would be acceptable. The City's Technical Standards permit a driveway width of between 10 and 20 feet (it is preferred that the width allow for two vehicles to pass each other particularly at York Street – so I would suggest 16 feet is the minimum width).

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE  
Senior Associate  
Traffic Engineering Director  
**TYLIN** INTERNATIONAL  
12 Northbrook Drive  
Falmouth, ME 04105  
207.781.4721 main  
207.347.4354 direct  
207.400.0719 mobile  
207.781.4753 fax  
thomas.errico@tylin.com  
Visit us online at [www.tylin.com](http://www.tylin.com)  
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*Attachment 3.1*

## MEMORANDUM



TO: Jean Fraser, Planner  
FROM: David Senus, P.E.  
DATE: August 27, 2013  
RE: 133 York Street – 6 Unit Residential Building, Level III Site Plan

*first review comments*

Woodard & Curran has reviewed the Level III Site Plan Application for the proposed 6 unit residential building located at 133 York Street in Portland, Maine. The project consists of replacing an existing 2 unit building with a 6 unit building, along with associated site improvements, landscaping, and utility connections. The project will result in a net increase in impervious area of 3,652 SF.

### Documents Provided By Applicant

- Final Level III Site Plan Application and attachments dated July 24, 2013, prepared by Pinkham & Greer Consulting Engineers.
- Engineering Plans, Sheets C1.1 – 1.5, C2.1 - 2.4, and D1.1, dated July 24, 2013, prepared by Pinkham & Greer Consulting Engineers.

### Comments

- 1) In accordance with Section 5 of the City of Portland Technical Manual, a Level III development project is required to submit a stormwater management plan pursuant to the regulations of Maine DEP Chapter 500 Stormwater Management Rules, including conformance with the Basic, General, and Flooding Standards. We have reviewed these standards relative to the proposed project and offer the following comments:
  - a) Basic Standard: Plans, notes, and details have been provided to address erosion and sediment control requirements, inspection and maintenance requirements, and good housekeeping practices in general accordance with Appendix A, B, & C of MaineDEP Chapter 500. In addition to the notes and details contained on the plans, consider adding a temporary stabilization measure within the shallow swale on the east edge of the driveway.
  - b) General Standard: The Applicant has proposed a stormwater tree well to treat runoff from an impervious area in excess of the proposed new impervious area; the approach meets the intent of the General Standards. The Applicant should provide calculations on the sizing and design of the tree filter system, and clarify the system dimensions on Tree Filter detail sheet.
  - c) Flooding Standard: The project will result in a net increase in impervious area of 3,652 SF, resulting in an increase in the volume and rate of stormwater discharge from the site. The Applicant proposes to collect and route much of the stormwater from the site (and from uphill areas that drain onto the site) into the City's closed drainage system in York Street. As such, the project will result in a net reduction of stormwater runoff onto the neighboring properties. The Applicant should confirm with DPS that the existing storm drain system in York Street has adequate capacity to accept drainage from the site. If acceptable to DPS, the Applicant must request a waiver from the Flooding Standard for the current design. A waiver from the Flooding Standard appears to be appropriate for this project, as the increase in impervious area is relatively insignificant and the project will provide an improved drainage condition for the neighboring downhill properties.
- 2) Please confirm that POA#2 on the "Proposed Conditions" depicted on D1.1 is not intended to indicate runoff onto the Harborview Development parcel.
- 3) Storm drain and sewer pipe in the City Right of Way must conform to City Standards (refer to Section 2.5.2 of the City of Portland Technical Manual).



- 4) Provide additional information related to the roof drain connection to the treewell filter and the treewell filter connection to the site's storm drain system (provide pipe sizes, invert elevations, and detail the connections to the tree filter).
- 5) Proposed topography on C1.3 indicates that a portion of the drainage from uphill lots will be routed directly along the west building wall, please review the grading in this area.
- 6) Note 3 on C1.1 states that "All Powerline Utilities Shall Be Overhead"; however, a note on C1.3 indicates an underground connection from the utility pole at the rear of the building; please clarify. In addition, it appears that an easement will be required from McCormick Place Condominium for this underground utility connection.
- 7) A modular block retaining wall system is proposed along the property line on the west side of the site. It appears that an easement or temporary construction access agreement will be required from the Gilman-Flint and the Wallingford properties. The wall should be designed by a professional engineer. If the stamped design of the retaining wall system will be performed by the retaining wall manufacturer, a note should be added to the detail indicating this requirement.
- 8) The Stormwater Management Plan should include a stormwater inspection and maintenance plan developed in accordance with and in reference to Chapter 32 of the City of Portland Code of Ordinances.

3.3

## MEMORANDUM



**TO:** Jean Fraser, Planner  
**FROM:** David Senus, P.E.  
**DATE:** September 6, 2013  
**RE:** 133 York Street – 6 Unit Residential Building, Level III Site Plan; Response to Comments

*second review comments  
on plans in memo.*

Woodard & Curran has reviewed the response to comments letter from Pinkham & Greer dated September 3, 2013, along with the associated attachments. The following comments are listed in the order of our original memorandum, dated August 27, 2013, and in response to the letter from Pinkham & Greer dated September 3, 2013.

### Documents Provided By Applicant

- Response to Comments Letter dated September 3, 2013, prepared by Pinkham & Greer Consulting Engineers.
- Engineering Plans, Sheets C1.1, C1.3, C1.4, C2.2, REV dated September 3, 2013, prepared by Pinkham & Greer Consulting Engineers.

### Comments

- 1) Basic General and Flooding Standards:
  - a. Comment adequately addressed.
  - b. Please provide design calculations or verification from the manufacturer confirming that the 4x6 tree filter unit, as proposed, is sized and designed to accommodate the water quality storm event for the contributing land area.
  - c. No additional comments; DPS to confirm that storm drain in York Street has adequate capacity to serve the project drainage.
- 2) Comment adequately addressed.
- 3) It appears that PE N12 pipe is still proposed for the storm drain connection within the City ROW. This is not a City Standard pipe material; please revise to meet City Standards as listed under 2.5.2 of the City of Portland Technical Manual.
- 4) Comment adequately addressed.
- 5) Comment adequately addressed.
- 6) Power and telecommunications connections to the building are required to be underground; we anticipated that an easement will be required from McCormick Place Condominium for this underground utility connection.
- 7) Comment adequately addressed.
- 8) We will review when additional information is submitted.

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MEMORANDUM

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**To:** FILE  
**From:** Jean Fraser  
**Subject:** Application ID: 2013-187  
**Date:** 9/5/2013

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**Comments Submitted by: Marge Schmuckal/Zoning on 8/30/2013**

This project is to demolish an existing (abandoned) two family dwelling and to replace it with a 6 residential condominium. The project is in the R-6 zone and uses the regular R-6 zone dimensional requirements. However, because the existing building is on the existing rear property line, the rebuild is able to be moved forward and use section 14-433 to allow building additions to be within 5' of the side and rear line for buildings existing as of July 19, 1988. The existing building was present well before that date. The required front setback is being met.

The building height is being met (under 45'). However, the dimensions are being shown to the joist bering and not to the top of the joist as required by definition. I would like to see revised drawing that show the building height from grade (or average grade) to the top of the roof beam.

The open space ratio of 20% is being met at 25.56% per the information given. The 50% lot coverage is being met. 6 parking spaces are being met.

Separate permits are required for the demolition and new construction.

It is noted that the minimum 40' street frontage requirement is not being met at 27.2 feet. However, this lot is already developed and is legally nonconforming for the street frontage. They will not lose that street frontage legal nonconformity unless the present building is demolished and then no work to rebuild begins after one year.

Marge Schmuckal  
Zoning Administrator

**Jean Fraser - RE: FW: 13105-133 York Street**

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**From:** Barbara Barhydt  
**To:** Greer, Tom  
**Date:** 8/30/2013 1:22 PM  
**Subject:** RE: FW: 13105-133 York Street  
**CC:** Benn, Jeremy; Flynn, Joe; Fraser, Jean

---

Hi Tom:

I just received Marge Schmuckal's comments as follows:

This project is to demolish an existing (abandoned) two family dwelling and to replace it with a 6 residential condominium. The project is in the R-6 zone and uses the regular R-6 zone dimensional requirements. However, because the existing building is on the existing rear property line, the rebuild is able to be moved forward and use section 14-433 to allow building additions to be within 5' of the side and rear line for buildings existing as of July 19, 1988. The existing building was present well before that date. The required front setback is being met.

The building height is being met (under 45'). However, the dimensions are being shown to the joist bering and not to the top of the joist as required by definition. I would like to see revised drawing that show the building height from grade (or average grade) to the top of the roof beam.

The open space ratio of 20% is being met at 25.56% per the information given. The 50% lot coverage is being met. 6 parking spaces are being met.

Separate permits are required for the demolition and new construction.

It is noted that the minimum 40' street frontage requirement is not being met at 27.2 feet. However, this lot is already developed and is legally nonconforming for the street frontage. They will not lose that street frontage legal nonconformity unless the present building is demolished and then no work to rebuild begins after one year.

Marge Schmuckal  
Zoning Administrator

>>> "Tom Greer" <TGreer@pinkhamandgreer.com> Friday, August 30, 2013 9:37 AM >>>

Hi Barbra,

Thanks for the review comments. I'll coordinate with Jean next week with a response. Have a great weekend.

**Tom Greer**

Pinkham and Greer, Consulting Engineers  
207-781-5242 voice, 207-781-4245 fax  
tgreer@pinkhamandgreer.com

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**From:** Barbara Barhydt [mailto:BAB@portlandmaine.gov]  
**Sent:** Friday, August 30, 2013 9:04 AM  
**To:** Tom Greer

Date: September 5, 2013

Memo To: Jean Fraser  
Barbara Barhydt  
From: David Margolis-Pineo  
Re: Development Review Comments for 133 York St.

The Department of Public Services has the following comments.

1. Add general note to plans the "All work within the road right of way shall meet City of Portland Technical Manual standards." N-12 drain pipe is not a pipe material which the City allows within the road right of way. SDR-35 is allowed.
2. Survey Comments:
  - a. Please provide State Plane Coordinates and pins, if not present, at all corners
  - b. Survey plan is required to be stamped by a registered land surveyor
  - c. Provide bearing on lines along York St to monument.
3. This location is not in the Historic District therefore the driveway apron material is required to be asphalt and not brick as proposed.
4. Electrical feed is required underground to the site. Current electrical, gas and cable feeds come from Park St. Do easements exist? What are the limits of the underground electric feed? From Park St?

We have no further comments at this time.

Attachment 7

**Jean Fraser - Re: 133 York- need comments today please**

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**From:** Chris Pirone  
**To:** Jean Fraser  
**Date:** 9/6/2013 8:42 AM  
**Subject:** Re: 133 York- need comments today please

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Presently, it is work in progress.

The Design Professional is appears to be accommodating to meet all applicable fire codes.

Fire needs

1. 20' access for fire fighting operations to and in front of the sprinkled structure.
2. FDC on York St. due to structure being set more than 100' from nearest hydrant.

Captain Chris Pirone  
Portland Fire Department  
Fire Prevention Bureau  
380 Congress Street  
Portland, ME 04101  
(t) 207.874.8405  
(f) 207.874.8410

 Please consider the environment before printing this email.

>>> Jean Fraser 9/5/2013 2:25 PM >>>

Hi

I am completing the PB memo on this project today and would be grateful if you could send me any comments as soon as possible.

thanks  
Jean



**Jean Fraser - Re: 133 York comments needed urgently please**

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**From:** Jeff Tarling  
**To:** Jean Fraser  
**Date:** 9/6/2013 1:56 PM  
**Subject:** Re: 133 York comments needed urgently please  
**CC:** David Margolis-Pineo  
**Attachments:** Portland Recm. Tree List.xls

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Hi Jean -

I have reviewed the landscape plans for 133 York Street and offer the following review comments:

**Landscape & Buffering:**

Due to the lot shape & size the 133 York Street site is unusually "challenged" in regards for 'green space', buffering and landscape improvements, particularly for an established residential neighborhood.

Recommendations: Additional buffering between the proposed project and brick residential property next door should be a requirement condition. The proposed projects driveway and parking is next to their backyard living space, patio & green space. Additional screening in the form of a 'green wall' and / or two to three columnar trees to be planted on the adjacent property would improve.

See green-wall examples: <http://www.greenscreen.com/home.html>

A 'green-wall' in the patio area near the corner and two trees in the lawn? Understanding the proposed project

is limited in space and need to be in agreement with the neighboring property to be successful in the tree planting aspect of this condition.

Additional buffering / landscape treatment condition #2 - the left side of the driveway at York Street for the first

40' (area of hash marks on plan) landscape planting or fencing to screen the side yard of the existing residential property next door. The landscape planting should provide screening or buffering as not to adversely affect the existing use next door. (I noted a small seating area on the lawn existing currently)

**Tree Types** - ALL trees should be from the City of Portland recommended list, (Little-leaf Linden is no longer on our recommended list). Suggestions might include: 'Karpick' or 'Red Point' Red Maple, 'Armstrong' Red Maple, the first two are a little less columnar the Armstrong, European

Hornbeam, upright Pin Oak also would work, this is the same for the lawn area trees above if needed.

**Tree Saves** - Tree protection measures should be included in the final plan and in the field as part of the preconstruction meeting. 'Tree Save' / protection for the root zone of the large Willow tree off site might include fencing if needed, see: [http://www.treesaregood.com/treecare/avoiding\\_construction.aspx](http://www.treesaregood.com/treecare/avoiding_construction.aspx)

The existing American Elm near the SW corner is next to a large Norway Maple - unknown if this can be saved.

It appears to be near the property line and would need to be limbed up for construction. Elm trees should only be pruned during the dormant season to reduce Dutch Elm Disease as fresh cuts attract Elm Bark Beetles.

**Relocated Plants** - While it is great to try to save existing plants 99% of the time it is unsuccessful due to timing, transplant shock, storage etc during project time line. Thus, all plants shown as to be relocated must be included as new plants and included into the performance guarantees in case the transplants are not successful.

**Cobblestone or granite paver** driveway & sidewalk - These existing features could add some historic interest to the site and should be considered for saving & reuse. Our HP office & Public Services can offer suggestions.

With some creativity and attention to these suggestions the landscape plan could help the project fit into the existing residential neighborhood with reduced impact.

Jeff Tarling

**From:** Jean Fraser  
**To:** Tom Greer  
**CC:** Jaegerman, Alex  
**Date:** 10/9/2013 6:15 PM  
**Subject:** 133 York Street- issues that need to be addressed urgently

Tom

Today we conducted the first substantive review of the recently submitted Hearing submissions on this project. It appears that there are several fundamental issues that need to be resolved prior to this being considered at a Public Hearing. We are not sure that these can be resolved (with reviewer signoffs) in time for the October 22, 2013 PB Hearing (for which the PB Report is finalized on 10.17.2013) and we strongly advise delaying the Hearing.

#### **FIRE ACCESS**

Chris Pirone has in writing (see Workshop Memo- staff review attachments) and in discussions with your team confirmed that a 20 foot access is needed to the front of the building. Today he has confirmed:

*"The applicant will need to show that our largest fire apparatus can get access to the front of the building and operate with 20' access in front of the building for emergency operations; to clarify the needed 20' in front of the building it must be measured from the furthest point of the building not just at ground level."*

Based on the submitted site plan and recently received section, the available distance between the canopy and the new curb is about 10 feet; between the bays and the new curb is 12 feet and both appear to be lower than a fire truck. The entrance doorway to the building appears to be 15 feet from the curb. Also we are not sure whether fire apparatus can get around the corner (need to see template showing fire apparatus can get around the corner). Based on this it appears that the footprint of the building needs to be reconsidered.

#### **VEHICLE ACCESS TO PARKING LEVEL/SPACES**

We received the turning templates for the parking spaces as part of this final submission and note:

Vehicles are shown parked partially "under" the storage units and starting from that point; yet the storage units are shown on the elevations with full height doors. Even if the storage units are partial as shown in the section, they appear to be 3-4 feet above the ground which is not high enough to allow a car to pull that far into the building;

For at least three of the parking spaces the ability to enter/exit appears to rely on there not being a vehicle parked in the adjoining space;

We note that these templates take no account of snow storage along the edge/end of the drive;

The templates suggest that the footprint of the building may need to be reconsidered;

We would like to see (in order to finalize staff comments) corrected templates for all spaces that accurately depict the location of the car in respect of the storage unit and show cars in the adjacent parking spaces.

#### **STORMWATER- TREE FILTER SIZING**

The City's Engineering Reviewer has sent me the following comments today:

1) *The tree filter sizing calculation indicates that the subsurface soils have an infiltration capacity of 0.525 cubic feet per second over the effective infiltration area. It appears the unit conversion did not account for an hours-to-minutes conversion factor (divide by 60); as such the modeled infiltration rate is significantly higher than could be expected. Please revisit the calculation and model to verify that the tree filter system can provide sufficient infiltration capacity;*

2) *The Stormwater Management Plan should include annual reporting requirements in accordance with and in reference to Chapter 32 of the City of Portland Code of Ordinances.*

#### **ELECTRICAL AND COMMUNICATION SERVICE**

We need to see a recorded easement for the location of this service if it is to remain at the existing location on private property (which is not part of the applicant's property), since it only serves this property and will need to be upgraded;

Both the Site Plan Ordinance (section 14-526 (c).3.b) and the Subdivision ordinance (14-499 (h) require that electrical lines be underground, so the staff view is that the electrical lines serving this new building should be underground from a pole or underground source in the ROW. So the retention of the existing O/H electrical lines is in question.

#### **CONSTRUCTION MANAGEMENT PLAN**

The recently submitted documents for the hearing indicate that a construction easement from McCormick Place has not been obtained and may not be agreed. Please provide an explanation of how the construction will be organized and managed in the absence of a construction easement with Mc Cormick Place so as to:

Ensure that none of the materials (including dust) from the building to be demolished will impact the abutting properties, including cars parked a few feet from the building on the McCormick Place property;

Safely dig foundations downhill a few feet from the property boundary (with no stable retaining wall in place at the moment) without any impacts to the neighbor's property or to the use of that property;

Ensure suppliers, contractors and subcontractors will not go onto any abutting private property unless a construction easement is in place;

Confirm what financial or legal mechanisms will be in place to deal with any damage or inconvenience to surrounding neighbors and their property, given the fact that you are cutting tree limbs from trees located on other property and constructing new structures on or very near the property lines and private structures (eg recently installed fencing) .

**OTHER**

There are some other detailed staff review comments that are resolvable and potentially could be addressed through conditions, and I anticipate a few more. I have not yet received formal comments from neighbors so it is possible they may raise additional issues.

Barbara Barhydt is on vacation this week so I have discussed these issues with Alex Jaegerman and he has been copied on this e-mail. Please do not hesitate to call either me or Alex if you would like to discuss further.

Thank you  
Jean

*Jean Fraser, Planner  
City of Portland  
874 8728*

**From:** Chris Pirone  
**To:** JF@portlandmaine.gov  
**CC:** BAB@portlandmaine.gov  
**Date:** 10/29/2013 8:15 PM  
**Subject:** Re: Fwd: FW: Code Review; 133 York St.

Yes.

Fire is all set with the condition that the FDC connection will be on York St.

Captain Chris Pirone  
Portland Fire Department  
Fire Prevention Bureau  
380 Congress Street  
Portland, ME 04101  
(t) 207.874.8405  
(f) 207.874.8410

>>> Jean Fraser 10/25/13 12:56 PM >>>  
Chris

Could you please let me know if this addresses all of your concerns and that the proposals are OK as they stand. We have to decide when they can get on a PB Hearing agenda!!!

Thank you  
Jean

>>> "Tom Greer" <TGreer@pinkhamandgreer.com> 10/25/2013 9:57 AM >>>

Hi Jean,  
Here is Mark's report. Let me know if you have any questions.

Tom Greer  
Pinkham and Greer, Consulting Engineers  
207-781-5242 voice, 207-781-4245 fax  
tgreer@pinkhamandgreer.com

**From:** Jeff Tarling  
**To:** Jean Fraser  
**CC:** Barbara Barhydt; David Margolis-Pineo  
**Date:** 11/4/2013 7:58 AM  
**Subject:** Re: 133 York St- PB Hearing Nov 12th confirmed

Jean -

Compared to the existing conditions the proposed is an improvement, and given the planting space or room for planting the landscape treatment is acceptable. The view to the architectural treatment or style is not covered in this description. A solid screen such as a fence, would not, in my view, improve the proposed.

Jeff

>>> Jean Fraser 11/1/2013 4:00 PM >>>  
Jeff

Did you look at the landscape buffer along the back of the proposed new building?

thanks  
Jean

>>> Jeff Tarling 11/1/2013 3:43 PM >>>  
Hi Jean -

I have reviewed the latest landscape plan for the proposed 133 York Street project and offer the following comments & conditions:

**a) Landscape review -** The proposed development at 133 York Street presents challenges to meet standard landscape treatment due to the shape and constraints of the project site. The project does offer landscape amenities such as a green wall to provide screening along with two off-site tree planting locations if agreeable. The building footprint close to existing building site poses challenges to screen but improves on the long existing conditions. Two mature trees are close and will likely have impact during the construction process. Best practices in regards to tree protection are needed to prevent / reduce root zone damage.

**b) landscape plant material: plant sizes - Condition)** shrub stock noted as "D" Clethra, "F" Deutzia, "J" Northern Bayberry, "K" Climbing Hydrangea, "L" Stephanandra shall all be #3 pot size minimum and tree sizes should be the following: "B" Flowering Crabapple 1.75-2" caliper, "C" Armstrong Red Maple 2" caliper. Items mentioned as "Existing", "G" Relocated Japanese Maple (#5 pot size), "H" Relocated Lilac (3-4'H) should also have these sizes as replacements if the relocation is not successful. (Too often good intent to save plants through construction are less then successful).

**c) Green wall -** the proposed project use of a green wall will help screen / buffer the adjacent building. The green wall plant type: Climbing Hydrangea is slow growing, and thus the proposed 1 gallon pot size much to small to be effective for many years... recommendations & condition the green wall plant sizes must be #3 pot & #5 pot sizes alternating minimum to provide a good start for the green wall.

**d) Tree Save** - The project proposes to save or minimally effect the condition of two shade trees close to the project property line on private property. From site inspection some root zone impact is expected and hopefully can be minimized with good tree protection practices. This would include following steps in the ISA trees & construction recommendations; physical trunk protection and construction fence, no storage of materials or equipment in the root zone area. Inspection of trenching etc when roots are exposed, cutting damaged roots cleanly with saw vs leaving them damage by earth equipment. If trees can not saved or damaged, replacement trees shall be installed. This would follow site specification standards.

Trees & Construction damage info, See:

[http://www.treesaregood.org/treecare/avoiding\\_construction.aspx](http://www.treesaregood.org/treecare/avoiding_construction.aspx)

[http://www.treesaregood.org/treecare/treatment\\_construction.aspx](http://www.treesaregood.org/treecare/treatment_construction.aspx)

The revised landscape plan addresses earlier comments in regards to buffer along the left side of the driveway and the north side of the project. The project with the conditions mentioned would be acceptable.

Jeff Tarling

## MEMORANDUM



**TO:** Jean Fraser, Planner  
**FROM:** David Senus, P.E. & Ashley Auger, E.I.T.  
**DATE:** November 6, 2013  
**RE:** 133 York Street – 6 Unit Residential Building, Level III Site Plan

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Woodard & Curran has reviewed the Response to Comments for the Level III Site Plan Application for the proposed 6 unit residential building located at 133 York Street in Portland, Maine. The project consists of replacing an existing 2 unit building with a 6 unit building, along with associated site improvements, landscaping, and utility connections. The project will result in a net increase in impervious area of 3,652 SF.

### **Documents Reviewed By Woodard & Curran**

- Stormwater System Letter and attachments dated October 21, 2013, prepared by Pinkham & Greer Consulting Engineers.
- Sheet C1.1-1.4 & 2.3, revised October 21, 2013, prepared by Pinkham & Greer Consulting Engineers.

### **Comments**

- 1) The applicant's submission adequately addresses the review comments contained in the October 9, 2013 memo from Woodard & Curran.



**From:** David Senus <dsenus@woodardcurran.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**CC:** Michael Farmer <Mfarmer@portlandmaine.gov>, "Thomas.Errico@tylin.com" <Thomas.Errico@tylin.com>  
**Date:** 11/7/2013 1:15 PM  
**Subject:** RE: final comments re 133 York Street

Hi Jean.

In reading through the Construction Plan for 133 York Street, I offer the following comments:

- >The plan should note the anticipated duration of construction
- >The plan should note work days and work hours
- >The plan states that demolition will be completed in one day, but then states the "process" (demolition & removal) will take place within one to two working days; this should be clarified
- >The plan notes installing "six foot tall construction fencing" across the property line; the fence should be installed along the property line and should not encroach on neighboring properties (unless an easement is granted)
- >The plan should note that a stabilized construction entrance/exit will be constructed at the York Street driveway per the Erosion and Sediment Control Plan, and that the York Street Right-of-Way shall be kept clean from dust and construction debris and swept as determined necessary by the Contractor or as requested by the City of Portland to minimize dust and sediment originating from the site.

Tom, Mike or Jeremiah may have other comments related to construction access to the site on York Street from a traffic/signage perspective.

Thanks,  
Dave

David Senus, PE (Maine), Project Manager  
Woodard & Curran, Inc.  
41 Hutchins Drive  
Portland, ME 04102  
Phone: (800) 426-4262 x3241  
Cell: (207) 210-7035  
Fax: (207) 774-6635

Woodard & Curran  
www.woodardcurran.com<<http://www.woodardcurran.com>>  
Commitment & Integrity Drive Results

**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>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>, Jeff Tarling <JST@portlandmaine.gov>, Michael Farmer <Mfarmer@portlandmaine.gov>  
**Date:** 11/7/2013 12:47 PM  
**Subject:** 133 York Street

Jean - The following are my final comments and represent a status update of my August 23, 2013 comments.

\* Access and egress movements into the garages appear difficult given the narrow pavement area. The applicant shall provide turning template graphics for a standard passenger car illustrating the ability of vehicles to adequately circulate on-site.

**Status: The applicant has provided the requested turning template graphics. Given site constraints, I also requested that the applicant provide a simulated site layout in a parking area so that I could determine if vehicles could access/egress the parking garages. Based upon the field study, some garages will require multiple maneuvers (k-turns) to enter and exit the garages. The site is very constrained and the ease in which vehicles can make their intended maneuver will be a function of the design vehicle. My field simulation was based upon a Subaru station wagon and this represents a mid-size vehicle. Large Single-Unit Vehicles (SUV) will have greater difficulty. With all that said, I do support a waiver from our technical standards for parking lot aisle width dimensions. The waiver is suggested given the unlikelihood that vehicles will back down the driveway into York Street. There is a significant distance between the garages and York Street, and thus feel that all maneuvers will occur on-site. I would note that the bicycle rack should be relocated so that it does not impede circulation. Additionally, it will be very important that snow removal/maintenance is effective so that snow does not further constrain the site.**

\* Pedestrian movements between the proposed building and York Street should be considered. I would note that I am flexible in the width of the driveway given the size of the development and accordingly a reduction would be acceptable. The City's Technical Standards permit a driveway width of between 10 and 20 feet (it is preferred that the width allow for two vehicles to pass each other particularly at York Street - so I would suggest 16 feet is the minimum width).

**Status: I find the applicant's plan for delineating the pedestrian space to be acceptable.**

#### New Comments

\* **There was a public comment regarding site plan standards for delivery vehicles. The City standard notes the following: Sec 14-526 Site plan Standards (a) Transportation. 2.b. Loading and Servicing All developments served by delivery or other service vehicles shall provide a clear route and travel way geometric design that permits safe turning and backing for the maximum vehicle length that would service the development and does not impede site access, vehicle circulation, pedestrian movements or parking. The City has historically interpreted this standard as being applicable for large developments that have specific site truck features such as loading docks. This standard is not applicable in the core urban area of Portland and where little or no on-site vehicles circulation is provided (unless it is a large development). Accordingly, this standard does not apply to the proposed project.**

\* **A construction management plan for activities in York Street shall be provided, for review and approval, prior to the issuance of any City permits. I would note that given the high level of traffic on York Street, it is very likely that construction activity will not be allowed during peak traffic time periods.**

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

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**MEMORANDUM**

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**To:** FILE  
**From:** Jean Fraser  
**Subject:** Application ID: 2013-187  
**Date:** 11/8/2013

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**Comments Submitted by: Marge Schmuckal/Zoning on 11/8/2013**

I have reviewed the most current plans that have been submitted for building height. Section 14-139(a)7 of the R-6 zone restricts the maximum building height to 45'. The applicant has shown the height from the lowest grade to the top of the roof beam to be 40' -5 1/4". This is the height BEFORE averaging grades, which would lower the "official" height of the structure. The 40'- 5 1/4" is well under the maximum height allowed by Ordinance. The building height is ok for the zoning analysis.

All other previous conditions must still be met when applying for a permit application.

Marge Schmuckal  
Zoning Administrator

# Memo

To: Chair Morrisette and Members of the Portland Planning Board

From: Jennifer L. Thompson, Associate Corporation Counsel

Date: November 7, 2013

Re: 133 York Street and Neighbor concerns

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Questions have come up in connection with this project over the Board's authority and the extent to which it can deny or condition approval because of potential harm that may result to neighboring properties, either in the form of falling construction debris, architectural damage from blasting, or contractors occupying neighbors' parking spaces without permission.

This memo is simply to confirm that the Planning Board's authority is constrained by the City's Code. Although the Board is authorized to place conditions on the approval of a project, the kinds of conditions it can impose are generally related to the use that is being made of the property itself and the particulars (design, etc.) of the development.

The Board does not have the authority to condition or deny approval of a project based on the speculative violation of other laws. The concerns raised by neighbors about this project thus far appear to be private civil matters (civil trespass, for example) that must be resolved between the neighbors and the applicant if and when those concerns come to pass.

I will be at the hearing on November 12 and will be happy to discuss this further and answer any questions you might have.

Memorandum  
Department of Planning and Development  
Historic Preservation Office

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**To:** Jean Fraser, Planner

**From:** Deborah Andrews, Historic Preservation Program Manager DA

**Date:** November 7, 2013

**Re:** Proposed New Construction at 133 York Street - Compatibility with Adjacent West End Historic District

Sec. 14-526 (a), Standard 18 b requires that “when any part of a proposed development is within 100 feet of a designated ... historic district, such development shall be generally compatible with the major character-defining elements of the ... portion of the district in the immediate vicinity of the proposed development.” This review standard also requires that Historic Preservation staff provide comments to the Planning Board relative to this Standard.

In this instance, although the proposed development is located within 100 feet of the boundary line of the West End Historic District, the development does not *immediately* abut the district boundary. Other existing residential structures separate the proposed new construction from the historic district. Also, because the development is to be located within the interior of the block, existing buildings that front onto the surrounding streets obscure views of the new building. Indeed, the new development would only share a direct visual relationship with the rear or secondary facades of surrounding residential structures. Finally, the recently completed Harborview Terrace is now part of the proposed development’s context and has set a precedent for departing from the traditional architecture and development patterns that characterize this area. For all these reasons, compatibility with the West End Historic District is not a major issue in this case.

**Memorandum**  
**Planning and Urban Development Department**  
**Planning Division**

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**To:** Planning Board  
**From:** Alex Jaegerman, Caitlin Cameron, Jean Fraser  
**Date:** November 8, 2013  
**Re:** **Design Review 133 York Street**  
**R6 Design Standards**

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**BACKGROUND**

1. Staff reviewed the submitted black and white elevations in early September and considered the proposals generally met the principles and standards of the R6 Design guidelines except regarding C-1 and F-6 (main entrance), where it was recommended that the central entrance at ground level be more strongly emphasized through the introduction of features such as transom windows, wider door, more robust canopy articulation. Staff also asked for information as to why one half of the building is higher than the other, and confirmed at the Workshop that the comments were preliminary as staff had not seen color renderings nor samples of materials.
2. At the Workshop color renderings were shown which staff had not previously seen which showed large areas of blue metal cladding on the rear and side elevations. The Board and neighbors raised concerns over the materials and the bland rear elevation. These issues were discussed at a staff meeting on September 23, 2013 with Bob Howe the applicants architect. Staff were given to understand that the applicant was committed to the proposed materials (including colors) but open to some redesign. The discussion also reiterated staff concerns regarding the weak entrance area at the front.
3. The architects submitted revised elevation treatments as part of the October 1, 2013 submission. Staff welcomed the improvements to the front door area but considered that the rear elevation was still unresolved, with little articulation and no obvious design aesthetic. The roof cornice at the rear was suggested as an aspect that could be improved, along with less blue cladding and more/larger windows. A revised elevation was submitted on October 4, 2013 that included more windows, less blue cladding and with the cornice at the rear to match the cornice round the rest of the building. This remains as the final submission for consideration at the hearing.

**COMMENTS ON FINAL PROPOSALS**

4. The proposed design of the building needs to “...*contribute to and be compatible with the predominant character-defining architectural features of the neighborhood.*” (R6 Principle A) and the materials need to meet the standard (R6 Principle G-1) that requires the use of “...*appropriate building materials that are harmonious with those in buildings within a 2-block radius of the site that contribute to and are compatible with the predominant character-defining architectural features of the neighborhood*”. In view of the mixed character and cladding (most are white or light colored vinyl horizontal clapboards) of the nearest surrounding buildings, the proposed materials in and of themselves appear to meet the standard- but the choice of specific colors, trim and the scale and location of contrasting materials does not relate to any local design character.
5. The proposed design should also address the Principle F re “Articulation” (extracted below) and the rear elevation remains weak in relation to this standard. Staff remain disappointed in the rear elevation treatment. It is more balanced with the addition of windows and benefits from the larger cornice treatment. However, it

still lacks in articulation and interest. The applicant has explored relatively minor cladding revisions and these do not fully address the Principle F regarding “Articulation”.

6. It should be noted that the “Multifamily” Design Standards also apply to the project and are discussed in the main Hearing Report. These standards include:  
*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;*
7. In addition, the proposed building is located within 100 feet of the West end Historic District. The Historic Preservation Manager Deb Andrews had noted at the Workshop that between the historic area and the proposal site there are many relatively recent developments that are more modern in design and therefore the overall design and the materials (which she saw in black and white) were generally compatible. Ms Andrews has reviewed the final design that incorporates the blue metal cladding and has provided a separate review Memo that confirms compatibility is not an issue in this case.

#### ***EXTRACT from R6 Design Principles & Standards***

#### ***PRINCIPLE F      Articulation***

*The design of the building is articulated to create a visually interesting and well composed residential façade.*

Explanatory Note: Articulation refers to the manner in which the shapes, volumes, architectural elements and materials of a building’s surface are differentiated yet work together. A well-composed building articulation adds visual interest and individual identity to a home while maintaining an overall composition.

**STANDARD F-1      Articulation** Buildings shall provide surface articulation by employing such features such as dimensional trim, window reveals, or similar elements appropriate to the style of the building. Trim and details shall be designed and detailed consistently on the facades visible from the public right of way.

**STANDARD F-2      Window Types** Window patterns shall be composed of no more than two window types and sizes except where there is a design justification for alternate window forms..

**STANDARD F-3      Visual Cohesion** Excessive variations in siding material shall not be allowed if such changes disrupt the visual cohesion of the façade. Materials shall be arranged so that the visually heavier material, such as masonry or material resembling masonry, is installed below lighter material, such as wood cladding.

**STANDARD F-4      Delineation between Floors** Buildings shall delineate the boundary between each floor of the structure through such features as belt courses, cornice lines, porch roofs, window head trim or similar architectural features.

**STANDARD F-5: Porches, etc.** Porches, decks, balconies, stoops and entryways shall be architecturally integrated into the overall design of the building in a manner that compliments its massing, material, and details. Multilevel porches and balconies on front facades shall not obscure the architectural features of the façade. Use of rail/baluster systems with appropriate openings between rails, stepping back balconies from the front plane of the building face, or other appropriate design features shall be employed to achieve this standard.

**STANDARD F-6: Main Entries** Main entries shall be emphasized and shall be integrated architecturally into the design of the building, using such features as porch or stoop forms, porticos, recessed entries, trim or a combination of such features, so that the entry is oriented to the street.

**STANDARD F-8: Articulation** Provide articulation to the building by incorporating the following architectural elements. Such features shall be on all façades facing and adjacent to the street.

1. Eaves and rakes shall have a minimum projection of 6 inches.
2. All exterior façade trim such as that used for windows, doors, corner boards and other trim, shall have a minimum width of 4 inches except for buildings with masonry exteriors.
3. If there are off sets in building faces or roof forms, the off sets shall be a minimum of 12 inches.
4. Pronounced and decorative cornices.



Buildings on Park Street between York Street and Nye



135 York, corner of Park



29 Park (abuts site)



33 Park (McCormick Pl)



corner Park + Nye



Nye Street, SE side



View of site over parking for McCormick Place



west side of Park St.

Staff Photos  
11-6-2013

Panorama from York Street- from west to east



from York, just w of park



Park St.



Proposal Site

Access to 133 York



12 unit condo



new Harborview Terrace  
(abouts site)



Harborview Terrace +  
rear of properties  
facing High St



Rear of properties  
facing High St.

(Staff photos  
11.6.13)

**Jean Fraser - Fwd: Planning Board Meeting on 133 York St is scheduled for TONIGHT at 5:30 PM**

**From:** Susan Kaplan <birmanmom@gmail.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**Date:** 9/24/2013 11:40 AM  
**Subject:** Fwd: Planning Board Meeting on 133 York St is scheduled for TONIGHT at 5:30 PM

Good morning Jean,

Please add this to the public record.

### **Forwarded conversation**

**Subject: Planning Board Meeting on 133 York St is scheduled for TONIGHT at 5:30 PM**

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All,

*for P.S.*  
The Planning Board Meeting on 133 York St is scheduled for **TONIGHT at 5:30 PM in room 209 at City Hall**. Below is a summary of the two recent meetings along with concerns raised by abutters. If you share any of these concerns, please try to attend tonight's meeting.

#### **Sep 4th: Meeting with Jeff Tarling, city arborist**

Jeff Tarling did not raise concerns about the removal of the large tree near the Townhome property line. Note: the tree appears to be sitting on the property line between 133 York and McCormick Place (behind 133 York).

Jeff did raise the concern about the lack of privacy / screening in the design and may recommend a green wall between 133 York and the rear of the Flats.

#### **August 30th: 133 York Street (Public Information Meeting)**

Below are my revised notes from the August 30th meeting followed by Bruce Baker's observations.

### Notes from Susan Kaplan

- Proposal is for a 6 unit, 26' x 89.5' building with a max building height of 41'
- Tom Greer of Pinkham & Greer states that no variances or waivers will be required for this project

Water abatement plan includes:

- Standard 6" curb with a catch basin for runoff from property
- Driveway will slope downward with the highest side towards High St
- Piping system in roof to control runoff from flat roof
- The driveway will include tree wells and a storm drain

New structure and surrounding land:

- Updated plan will be the same height as Townhomes
- New plan is 8' - 11' feet higher than current building, blocking water views behind the property
- Current plan will remove the large tree next to Townhomes (and all other trees on property)
- There will be a 13' setback to Townhomes
- New plan doubles the footprint of building

Observations / Concerns from Abutters:

1. Concerns raised in the first meeting regarding privacy, screening, and the maintenance of the large tree near the Townhome property line were not considered by developers
2. The developers stated that there are no provisions being made to maintain screening or privacy for the rear residents of the Flats

3. Headlights from underground parking area will shine directly into the windows of the rear Flats first floor residences
4. The water abatement plan is of serious concern given the present volume of runoff into the Flats basement
5. Storm water in the last 6 months alone have caused flash flooding on York Street at the base of the 133 York driveway and a manhole cover near the York / High intersection to burst open.
6. Questions were raised regarding access to the construction site. Who will be granting this access?
7. Abutters in Townhomes have not been notified of public meetings; they have learned of the meetings from the Flats residents.
8. This public meeting was scheduled on a Friday night before Labor Day weekend which negatively impacted public input and turnout.

The tentative plan is to begin framing the structure in the fall with a meeting workshop in September.

Notes from Bruce Baker:

Thoughts from the Friday meeting.

I came to the meeting in order to support the Flats building due to the fact that several activists could not make it. My intent was to simply put forward three key concerns.

Those were:

- a) Maintaining privacy between the new building and Flats.
- b) To keep as many trees as possible
- c) To control any runoff from the new building/paving.

The folks representing 133 were the same as at the first meeting with Tom Greer doing the presenting.

It started fine but soon I heard points that were different from our first

meeting and, of course, they were impacting my three points above.

Tom said that the large tree on their property that stands near the fence beside Unit A in the "T'Homes" building probably could not be saved. He said that the builder thought it too close to the new building and that a large section would have to go. The remaining portion would be "unsafe" and should be taken down as well. He offered two new, much smaller, trees in its stead. I asked how close the new building would be to the property line. He said "13 feet". I pointed out that this was at least 15 feet different than what was described at the first meeting. He denied it. I told him how he had described it to me at the first meeting. "At the far side of the shed." It was now a good distance beyond the far side of the shed. As described at the first meeting I did not see a difficulty in keeping the tree.

The second point of contention was the height of the building. At the first meeting it was going to be 5' higher than the highest point on the current building. Now it is going to be 11' higher. This was also pointed out as a big difference relative to views. Tom basically said they did not have to do anything about it. I guess people could invest in shades and privacy fencing on their decks. That last point was my idea.

The third issue was runoff and Tom said that there would be a catch basin on the 133 side opposite the Willow tree, which was good but that the only other consideration would be a 6" curb running from the catch basin to where the driveway would be. It was pointed out by myself and several others in attendance that the land as it stands now absorbs a lot of the water but that the new building roof and the paving for driveway would overwhelm any "standard" effort like a 6" curb. It was pointed out that we expected no negative impact upon the Flats basement from this new project.

Tom did not have any response other than their recollection was different. I assured them that my memory was clear and that I, for one, did not appreciate being misled and I doubted that those not in attendance would be very happy.

Others can fill in more detail, I left at that point.

~~~~~  
Susan Kaplan

**From:** "Catherine Morrison" <cmorrison@createagreement.com>  
**To:** "Jeff Tarling" <JST@portlandmaine.gov>  
**CC:** "Barbara Barhydt" <BAB@portlandmaine.gov>, "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 9/18/2013 4:51 PM  
**Subject:** RE: Tree located at 133 York St. development site

Jeff,

Thanks very much for the information. It sounds like the two trees (willow and deciduous tree with deeply grooved bark and almond shaped leaves adjacent to recently completed construction project) that are of greatest concern to Harborview Flats (the brick complex in front of the project) and Harborview Townhomes (the new construction adjacent to the project) might be preserved in some form. Each of the two Harborview properties has been developed recently and it is not our intention to take a NIMBY stance about additional development in the neighborhood. We do hope to preserve green space when possible. This gives me a better understanding of where things are at this point. I appreciate your advice about plantings for Harborview Flats as well.

Best,

Catherine

From: Jeff Tarling [mailto:JST@portlandmaine.gov]  
 Sent: Wednesday, September 18, 2013 3:41 PM  
 To: Catherine Morrison  
 Cc: Barbara Barhydt ; Jean Fraser  
 Subject: Re: Tree located at 133 York St. development site

Hi Catherine -

I recall that the tree near the corner of the existing building would be impacted by the construction project, the tree the furthest from York Street along with the Willow had less impact, and the Willow perhaps the root zone.

We would include 'tree protection' measures in the project review comments, see example at this web link:

[http://treesaregood.org/treecare/resources/Avoiding\\_Tree%20damage.pdf](http://treesaregood.org/treecare/resources/Avoiding_Tree%20damage.pdf)

Planting two to three columnar trees on your property in the green space might provide additional greening. I can suggest tree types such as 'Karpick' Red Maple of the more upright 'Armstrong' Red Maple, like the ones next door at the condo entrance on York Street.

Be glad to answer questions related to the landscape, I cc'd Jean Fraser the Site Planner on the project to let her know. The Planning Department maintains the 'official' lines of communication in site plan related projects.

thanks,  
 Jeff

>>> "Catherine Morrison" <cmorrison@createagreement.com> 9/18/2013 9:38 AM  
>>>

Dear Mr. Tarling,

I live at 125 York Street and recently attended a meeting hosted by the developers of the property at 133 York Street. One of the items that we discussed was whether a tree located on the northeast corner of the property could be preserved. I understand that you came on site and looked at the tree to provide advice about its stability if a portion of it is removed. Our homeowners association is meeting tonight and I'd like to give them an update on the project. Could you let me know your recommendation to the developers about the tree?

Thanks very much.

Catherine Morrison

Catherine J. Morrison, JD

125 York Street, Unit A

Portland, ME 04101  
717-917-0115 (mobile)

<mailto:cmorrison@createagreement.com> cmorrison@createagreement.com  
<http://www.createagreement.com/> www.CreateAgreement.com



**Jean Fraser - Re: 133 York Street/Harborview Flats**

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**From:** Susan Kaplan <birmanmom@gmail.com>  
**To:** Jeremy Benn <jeremy@joeflynnrealestate.com>  
**Date:** 9/24/2013 6:01 PM  
**Subject:** Re: 133 York Street/Harborview Flats  
**CC:** Seth Page <sxp@earthlink.net>, Elliot Vrana <elliott.vrana@gmail.com>, Er...

Much appreciated Jeremy - I am glad the illustration was helpful in clarifying our concerns. I copied Jean Fraser, City Planner on our correspondence as our concerns are consistent with those raised on page 9 of her September 6, 2013 memorandum. In one of the Staff Comments, headlights, screening, and solid fencing are discussed and the City Arborist's recommendations are referenced for further consideration.

Our Association is having discussions regarding trees being planted on our property (whose maintenance will become a Harborview Flats expense) with arguments pro and con being presented. We are eager to hear additional ideas beyond your proposal to plant trees on our side of the fence. Any further ideas you are entertaining (solid fencing, trees on your property, etc.) would be of interest to us.

Finally, we are eager hear / see the details of the updated façade.

Thanks again for your time and patience as we come to an agreeable plan, Jeremy!

Susan Kaplan  
 207.232.1180

On Mon, Sep 23, 2013 at 12:58 PM, Jeremy Benn <jeremy@joeflynnrealestate.com> wrote:

Hi Susan,

I see your concerns about the headlights as illustrated by the red arrows. I have asked the engineer to update the site plan to show a "green wall" to continue all the way across the fence. I will keep you updated on the façade.

Thank you,

Jeremy Benn

133 York, LLC

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**From:** Susan Kaplan [mailto:birmanmom@gmail.com]

**Sent:** Thursday, September 19, 2013 11:12 AM

**To:** Jeremy Benn

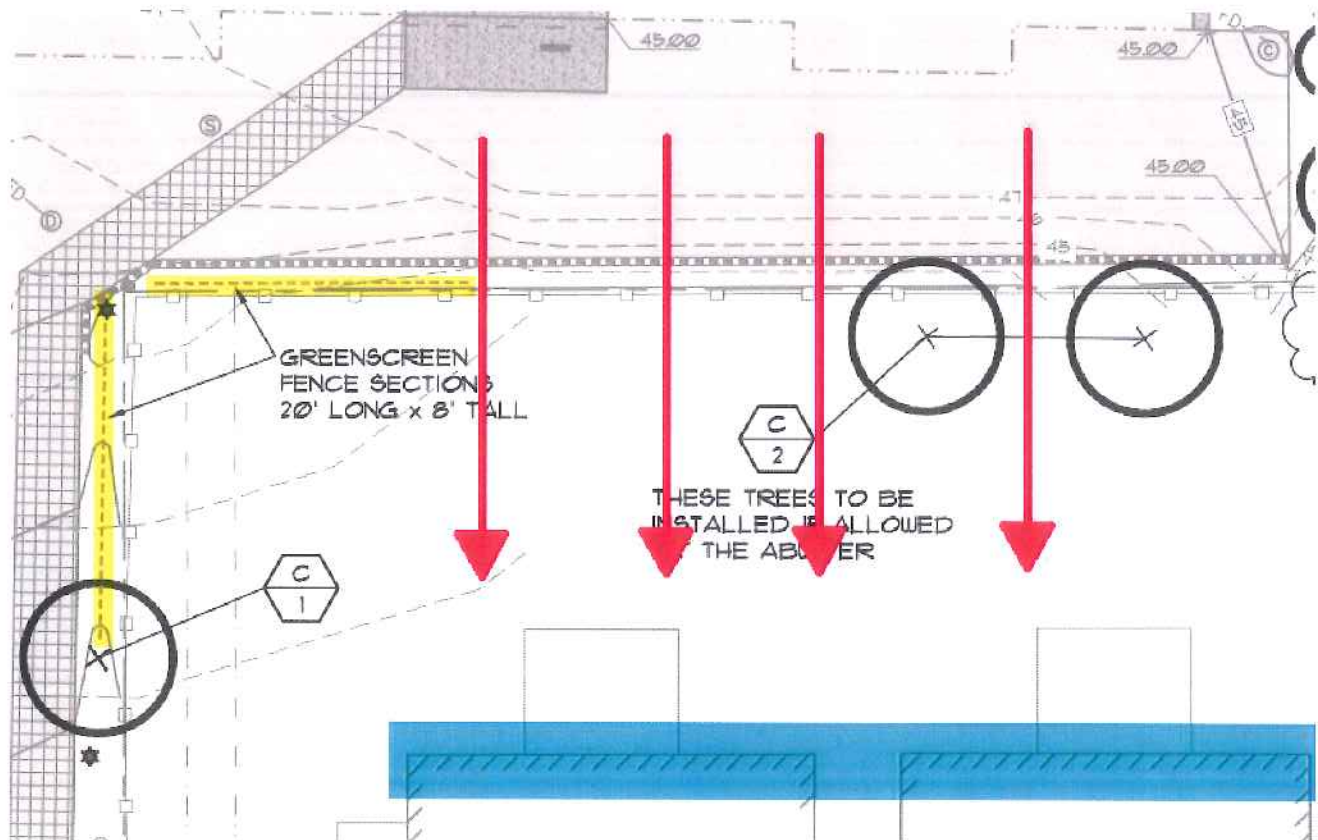
**Cc:** Seth Page; Elliot Vrana; Erin Foley; Bruce Baker; Catherine Morrison; David Marsden; Jean Fraser; Erika Johnson; Bill Mitchell

**Subject:** Re: 133 York Street/Harborview Flats

I appreciate the clarification, Jeremy.

incl. in PB Report.

Below is an updated image with the green wall highlighted in yellow. The areas noted in blue (below) are our primary concern; hence the placement of the green wall is puzzling to me. Perhaps our concerns were not clearly stated.



AS the plan sits, the headlights from cars that are backed into your parking area will shine directly into the first floor condos (in blue) at the Flats. This unscreened area is noted with the red arrows above. The green wall and trees (as they are currently proposed) will not adequately address our concerns.

The abutters will be meeting to discuss our privacy and screening concerns further. In the meantime, we are very eager to hear your ideas for addressing this issue. We are also eager to see the changes to the exterior, as this was another primary concern.

Thanks again for reaching out to us so we can work together on a mutually agreeable plan.

Susan Kaplan

[207.232.1180](tel:207.232.1180)

On Wed, Sep 18, 2013 at 5:13 PM, Jeremy Benn <[jeremy@jocflynnrealestate.com](mailto:jeremy@jocflynnrealestate.com)> wrote:

Hi Susan,

1) The green wall goes beyond what you have highlighted, it is represented by the dashed line. It goes to about where the front door is located and further down the driveway.

2) The additional provision is in fact the two trees on the plan – this was suggested by the city arborist. We have added the trees and green wall to help with the privacy concerns.

3) The extra privacy for the town homes is provided with the additional 12 trees and shrubs as detailed on the plan.

Thank you,

Jeremy

Jeremy Benn

133 York, LLC

807-9218

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**From:** Susan Kaplan [mailto:[birmanmom@gmail.com](mailto:birmanmom@gmail.com)]

**Sent:** Wednesday, September 18, 2013 4:59 PM

**To:** Jeremy Benn

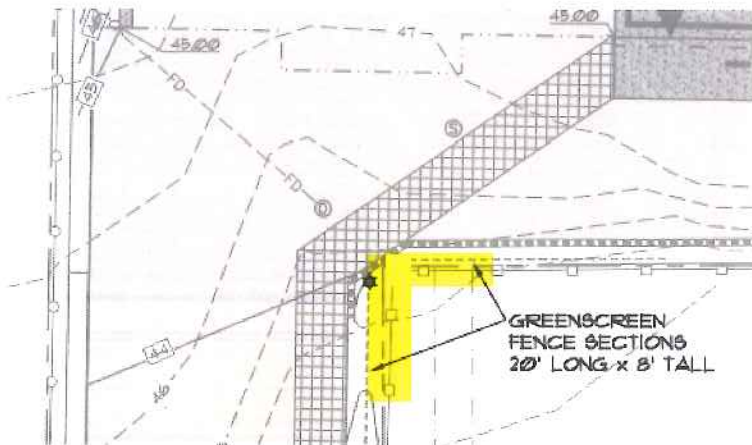
**Cc:** Seth Page; Elliot Vrana; Erin Foley; Bruce Baker; Catherine Morrison; David Marsden; [JF@portlandmaine.gov](mailto:JF@portlandmaine.gov); Erika Johnson

**Subject:** Re: 133 York Street/Harborview Flats

Hello Jeremy,

Thank you for the site plan. I want to be sure I have read the plan correctly.

- 1) In your present design, is the green wall only planned for the section that is highlighted in yellow in the image below (the corner area)?
- 2) If YES, what provisions (beyond the trees you cited) have you made for affording the Flats screening and privacy from the parking area?



3) And finally, do you have any plans for providing privacy or screening to the adjacent Townhomes building?

Much thanks Jeremy,

Susan

Susan Kaplan

[207.232.1180](tel:207.232.1180)

On Wed, Sep 18, 2013 at 4:43 PM, Jeremy Benn <[jeremy@joeflynnrealestate.com](mailto:jeremy@joeflynnrealestate.com)> wrote:

Hi Susan,

I attached an updated site plan that illustrates the proposed trees and "green wall" addressing the planning board and abutters concerns. The plan identifies the location, species, and size of the plantings. I spoke with the architect this afternoon, he is working on the façade design. I will forward you the "re-worked" design as soon as it is available.

Sincerely,

Jeremy Benn

133 York, LLC

807-9218

**From:** Susan Kaplan [mailto:[birmanmom@gmail.com](mailto:birmanmom@gmail.com)]

**Sent:** Wednesday, September 18, 2013 12:22 PM

**To:** Jeremy Benn

**Cc:** Seth Page; Elliot Vrana; Erin Foley; Bruce Baker; Catherine Morrison; David Marsden; [JF@portlandmaine.gov](mailto:JF@portlandmaine.gov); Erika Johnson

**Subject:** Re: 133 York Street/Harborview Flats

Hello Jeremy,

Thanks so much for contacting me about your 133 York St project. I believe we met at the second public meeting.

The suggestions in your email sound like you are moving in the right direction. When you say, "the corner of the fence in your backyard", can you give me a better sense of what area would / would not be screened by the green wall? As the plan sits, the headlights from cars that are backed into your parking area will shine directly into the first floor condos at the Flats. I would be very interested in additional details as to the placement and length of the green wall.

Do you have any plans for providing privacy or screening to the adjacent Townhomes building (the modern building next to your property)? There has been discussion about planting one or more small trees, but this will not afford the privacy that the present tree provides (which apparently cannot be saved with your current design). I will be interested in hearing your plans for that side of the property and will pass along your ideas to the Townhomes residents.

As for the tree planting on our property, this sounds like a positive step. I will forward your suggestions to our residents for comment.

In addition to the items above, the façade was also a concern to both the abutters

and the planning board. Can you let us know if the exterior design has been modified? If so, we would be eager to hear / see the details of these changes.

Thanks again, and I look forward to your reply.

Susan Kaplan

[207.232.1180](tel:207.232.1180)

On Wed, Sep 18, 2013 at 12:00 PM, Jeremy Benn <[jeremy@joeflynnrealestate.com](mailto:jeremy@joeflynnrealestate.com)> wrote:

Hi Susan,

I am not sure if we have met or not, my name is Jeremy Benn. I am one of the owners of the property, 133 York, being developed behind Harborview Flats. I spoke with David Marsden and he suggested that I contact you to discuss ways that we could help the owners of Harborview Flats be more agreeable to our plan. We understand that some of the residents are concerned about privacy. We have made some changes to the site plan that include a "green screen" that is in two twenty foot lengths on the corner of the fence in your backyard. The City Arborist also suggested that we plant two Armstrong Red Maple trees on Harborview Flats property to add privacy. We would like to have a landscaper submit an estimate to plant the trees on your property and give your association a check to pay for the installation. The green screen and two additional trees will provide extra privacy that was not on our original plan. We realize that the owners may not be excited about the project going on behind them but we would like to make it as affable as possible. Do you have any suggestions?

Do you think that the residents would be agreeable to us planting trees in your backyard?

Sincerely,

Jeremy Benn

133 York, LLC

807-9218

**From:** "McGee, Martin" <Martin.McGee@FMR.COM>  
**To:** "'JF@portlandmaine.gov'" <JF@portlandmaine.gov>  
**CC:** "'mcgeekm@verizon.net'" <mcgeekm@verizon.net>  
**Date:** 10/11/2013 10:53 AM  
**Subject:** Concerns and Questions regarding 133 York Street

Hi Jean,

Our names are Karen and Marty McGee and we own Unit #3 in the McCormick Building at 33 Park St. We thoroughly enjoy our location and the immediate surrounding area as it currently exists.

We're sending you this email because we have a number of serious concerns and questions related to the proposed development at 133 York St. which abuts our property.

#### Concerns

1. **Height of Building.** When we purchased our unit 2 ½ years ago, one of the main reasons we selected our unit was because it had beautiful water views from the 2nd and 3rd floors. Our understanding is that the design of the proposed building will raise the height such that we will no longer have views of the water. This is very upsetting to us. We propose that the developer not be able to raise the height of the building so that the enjoyment (and value) of our property isn't compromised.
2. **Design of the Building.** The view from the rear of the building, our view, from the designs provided to this date, is uninspiring and doesn't fit in with the neighborhood. As we will be forced to look at this buildings rear view (if approved), it should at least be something that is pleasant to look at. And, as mentioned below, the lack of substantive greenery is definitely disappointing.
3. **Tree Removal.** Another important amenity to the enjoyment of our property is the greenery on and around our property. It is our understanding that the developer plans to remove all trees on or near the property (including those with a base on our property) without any plans for replacement when construction is completed. This will take away from the natural aspects of the surrounding area and create an unattractive, stoic environment. We are very concerned about this also.
4. **Central Air Units on the edge of our property.** Our understanding is that the building will place six (6) central air conditioning units at the rear of the building, directly on our property line. In addition to the noise pollution at the edge of our property, this is another detriment to the project and our visual enjoyment. We noticed that they have conveniently omitted these from all depictions of the property. It certainly doesn't seem to "contribute to and be compatible with the predominant character-defining architectural features of the neighborhood."
5. **Potential Damage to Our Property.** We at the McCormick Building have a storied history with developers and contractors that lack honesty, integrity, ethics and resort to bullying tactics to try to intimidate us. We're sure there are honest, ethical developers in the industry. But instead of dealing with honest, ethical businessmen, we've had to rely on attorneys to respond to their unprofessional, unethical tactics. We are very concerned about Joe Flynn and his associates. At the initial meetings at 133 York, they were not forthcoming with information regarding the specifics of the proposal. At a subsequent Planning Board meeting, they said they would not require access to the development from our property, but then sent an email the next morning to our association President asking for access. We are not willing to grant access to our property for work on 133 York St. And even if we were, what they are offering (landscaping an area that is fine "as is") is inexplicably inadequate. We are concerned that the developers and contractors will ignore this and use our property without consent and cause damage to our property.

#### Questions

1. How are concerns and questions raised by abutters, such as this email from us, factored into the approval process?

2. Do the plans include any drainage issues that could negatively impact our property? Is there any planned drainage onto our property?
  3. Overall size of the building. Is there any requirement that the footprint of the new building be no larger than the existing building? The current design's footprint is significantly larger than the current one.
  4. What are the restrictions on raising the height of the building from its current state?
  5. During the construction process, how often is the developer checked to make sure they are following the approved designs? What happens if they "deviate" from the approved plans? What checks and balances are in place by the City of Portland?
  6. Is the city involved in any way regarding enforcement of how the developer is accessing the property? Are they checked to make sure they are following approved access to the property? Or is this a private matter?
  7. Are there instances where abutters, like those of us in the McCormick Building, can be forced to grant access to the developer? (and how are the wishes of the abutters, extreme inconvenience and potential damage to property addressed)
  8. Demolition and construction of the property will make ½ of the available parking spaces unusable and almost certainly cause damage to our property. (for example, nails landing in our parking lot which could then end-up in a car tire) How can this be prevented?
- Thank you for your attention to our questions and concerns. We look forward to hearing back from you. If it's easier to discuss these concerns via phone, I (Marty) can be reached most easily at (617) 733-4384.

Regards,

Karen & Marty McGee

**From:** <topherbrowne@aol.com>  
**To:** <JF@portlandmaine.gov>  
**Date:** 10/11/2013 8:58 PM  
**Subject:** 133 York Street

Dear Ms. Fraser,

Thank you for your fastidious attentions to the proposal for 133 York Street.

As a resident who abuts the property in question, I have a few simple concerns:

1. The developer has been less than forthright when dealing with our condominium association. The agent for the developer is on the record at the last Planning Board meeting, stating that he would NOT require the use of our driveway at 33 Park Street to demolish the in situ building or to construct the new building. Less than 24 hours later, we received an e-mail from the developer requesting unlimited access to his property THROUGH our driveway at 33 Park Street for the duration of the construction project.
2. The developer is either unwilling or unable to contact our condominium association to discuss our concerns in spite of a specific request from the Planning Board to arrange such a discussion.
3. The residents of 33 Park Street stand to lose 50 percent of our assigned parking places for the duration of the demolition and the construction at 133 York Street. We have repeatedly voiced this concern with no response from the developer.
4. The architectural design of the proposed building at 133 York Street mirrors the design of the student apartments on Marginal Way (between Intermed and the Diner). I would not be surprised if the architect on both projects -- Marginal Way and 133 York Street -- is one and the same. While such an architectural design may be appropriate for Marginal Way, I respectfully submit that it is inappropriate for Portland's West End. Both the developer of 133 York Street and his architect can and should make a greater effort to ensure a measure of architectural continuity within the neighborhood.

Sincerely yours,

William "Topher" Browne  
33 Park Street Apt 2  
Portland, ME 04101

Sent from AOL Mobile Mail



**From:** "George L. Higgins III" <HIGGIG@mmc.org>  
**To:** "JF@portlandmaine.gov" <JF@portlandmaine.gov>  
**Date:** 10/13/2013 3:10 PM  
**Subject:** Input for the upcoming Planning Bord meeting

Dear Ms. Fraser:

My wife Cheryl and I are owners of one of the condominiums located at McCormick Place located on 33 Park Street. I write to add my voice and input for your consideration as the Planning Board considers the proposal to construct a 6-unit condominium complex at 133 York Street.

First and foremost, I want to sincerely thank you for the open, respectful and constuctive manner in which you have responded to our collective queries. You represent the City of Portland well, and I am most appreciative.

I will briefly express four issues that I offer for consideration by the Planning Board.

1. My understanding is that the developers of the York Street facility have publicly indicated that their contractors can access the site via the existing York Street entrance. This is good news since we, the Owners Association of McCormick Place, unanimously oppose having our private entrance and parking area adversely impacted during the construction process. Recent history with another developer involved with the facility constructed behind us was not optimal. We don't want to be in this position again since there is an alternative solution to the access issue.

2. Half of our parking spaces will be significantly compromised because of their contiguous location with the rear of the proposed York Street facility. Does the City require proof of appropriate liability insurance by the developer to cover any damage to our proerty, including vehicles?

3. I know you and your colleagues do all that you can to ensure that existing trees are given optimal consideration for survival within our beautiful city. I support this position fully and hope that trees will only be sacrificed during the York Street construction process if there is no other reasonable option.

4. Since the rear of the new proposed facility directly abuts our parking area, this will be our unobstructed view of it. I hope that the developer is considering ways to minimize the visual impact of industrial types of equipment and maximize the visual impact of buffering urban landscaping for the rear of the building. I have no doubt these issues are being considered for the front and side facades.

I will plan to attend the Planning Board meeting if my schedule allows. Can you provide me with the day, time and place?

I look forward to welcoming our new next-door neighbors in the near future. I'm sure they would want to know that neighborly respect was already evident during the construction process of their new homes.

Thank you again for your advice and consideration.

George L. Higgins III, MD, FACEP

Academic Faculty

Department of Emergency Medicine

Maine Medical Center

Professor

Tufts University School of Medicine

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Jean Fraser - 133 York St

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**From:** Erin Foley <efoley19@aol.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**Date:** 10/22/2013 4:47 PM  
**Subject:** 133 York St

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McCormick Place parking spaces are 42" from the edge of the existing building on 133 York

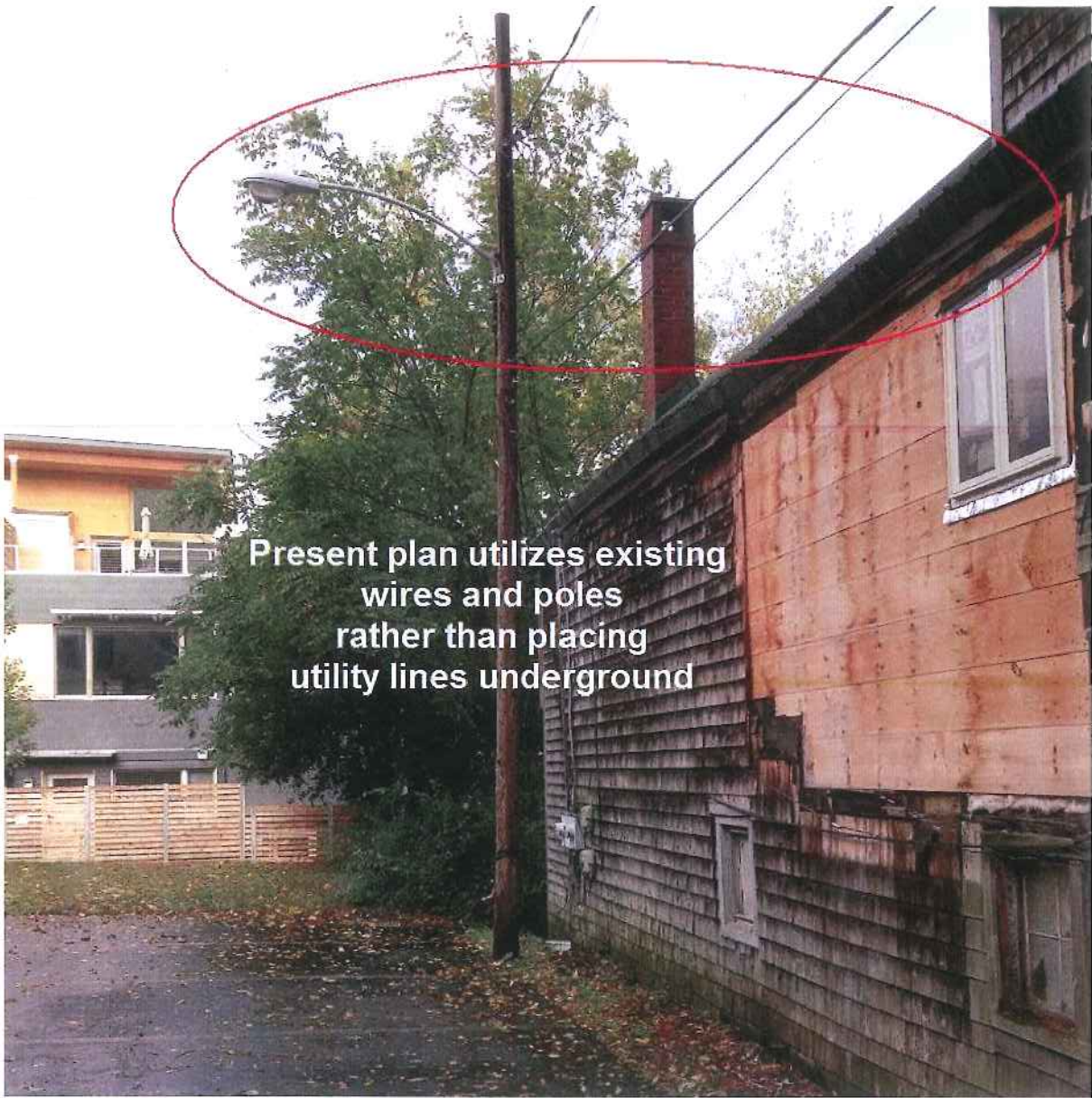
Photo to the right is an enlargement of the photo above showing the distance between the existing building and the cars parked in the McCormick Place parking lot



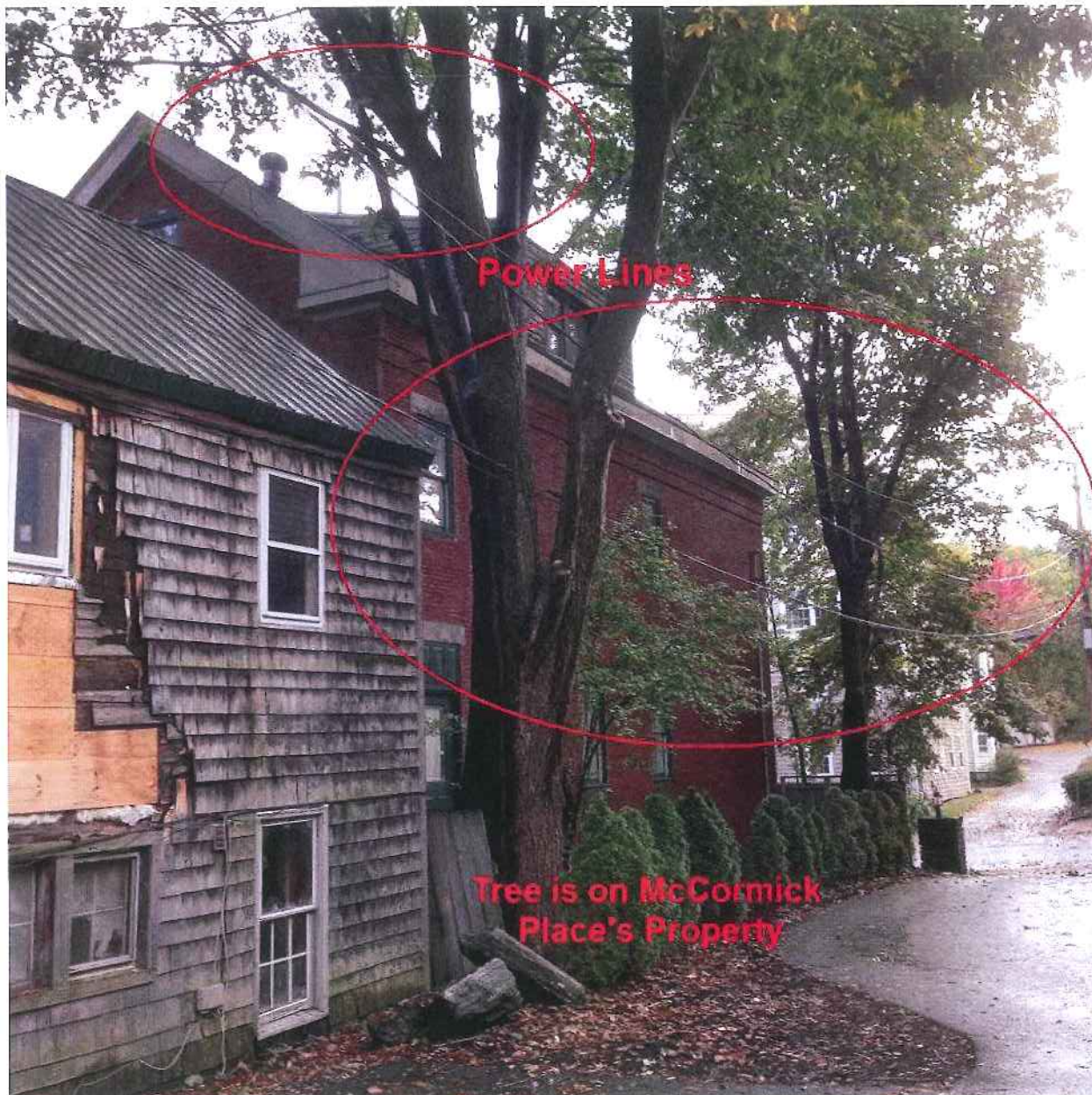


*Flat Roofed  
Buildings  
in Surrounding  
Neighborhood  
Shown Above*

*Proposed  
Building for  
133 York St  
to the Left*



**Present plan utilizes existing  
wires and poles  
rather than placing  
utility lines underground**



Jean, Thank you very much for taking time to meet with me, it was very informative and gave me some direction as to where to focus my concerns with this project.

As far as the project at 133 York Street I would like to bring up the following concerns:

1. The trees. Multiple trees stand on the property line. I would like to see an official landscape survey to see all trees on the property and determine ownership. If trees are shared, will the developers be required to replace them on our property if they are removed.

Site Plan standards. 2. landscaping and landscape preservation

a. landscape preservation (i) Site development shall be designed to incorporate and limit disturbance to or removal of existing trees.

2. This building does not fit in with the feel of the neighborhood. According to R-6 Design principles and Standards " A building design shall contribute to and be compatible with the predominant character-defining architectural features of the neighborhood" "they have a public responsibility to add to and enhance the neighborhoods in which their projects are built." This building is less than 100 feet from the historic district and within the West End. Most homes within the neighborhood maintain historic qualities or make an effort to blend in with the feel of the neighborhood. See image 2 .

Is there a reason for the teal stripe, could this possibly be a different shade of gray instead of teal. There are no other properties in the neighborhood that include teal as part of their color choices.

Also, is there architectural significance to the height of the building being 2 different heights?

3. According to the city Site Plan standards "1. b. The bulk, location or height of proposed buildings and structure shall minimize, to the extent feasible, any substantial **DIMINUTION** in the value or utility to neighboring structure. under different ownership and not subject

to a legal servitude in favor of the site being developed"

This related to our parking spaces, where due to safety reasons, I believe we will not be able to use the 5 spots abutting the construction site. Currently there is less than 4 ft from our parking lot to their property. See image 1.

Parking spaces in the West End average \$80/month for open air parking.

The height of this building will impact water views for 3 units at McCormick Place. I recently had my home reappraised and the water view is taken into account when determining the value of my home.

4. The current retaining wall on their property is in grave disrepair, what are the plans for preventing erosion during construction. City code requires "erosion control measures shall be taken both during and after construction in accordance with the standards of the public works" Our parking lot already has areas of erosion under the asphalt.

5. The rear of the building has no privacy from our property, a few trees but no real plan for landscaping the rear of the building. Is there a possibility for a fence or shrubbery to provide a separation of the properties.

6. The city requires space for delivery trucks to deliver and turn around on the property. I do not believe there is enough space for delivery trucks to turn around. This leaves trucks backing up onto York Street or worse parking on the side of York Street.

Sec 14-526 Site plan Standards (a)Transportation. 2.b. Loading and Servicing

All developments served by delivery or other service vehicles shall provide a clear route and travel way geometric design that permits safe turning and backing for the maximum vehicle length that would service the development and does not impede site access, vehicle circulation, pedestrian movements or parking.

7. Along the lines of turning radius, how will a snow plow be able to move and remove snow from this property?

8. We are concerned about the electrical lines that run to this property. Is there any plan to update the electrical lines or bury them? Currently they run from the opposite side of Park St through multiple trees to a telephone pole. From the pole they precariously run to the building. 3. Availability and adequate Capacity of public utilities. b. Electrical services shall be underground unless otherwise specified for industrial uses, or if it is determined to be unfeasible due to extreme cost.

See image 3 and 4.

Thank you for your time,

Erin Foley

McCormick Place Condo President

**From:** Chris Weiner <chrisweiner14@gmail.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**Date:** 11/6/2013 2:13 AM  
**Subject:** Hi Jean, York street project

Hi Jean,

This is Chris Weiner again, I live at 33 Park Street. I know we have exchanged some emails, and my plan is to save any specific comments for the meeting , but I wanted to send a few thoughts along for inclusion in the meeting binder.

I am still concerned about the design of the building they want to build. It seems out of place for this neighborhood, and it also seems overly ambitious for that space. It also appears they may plan on lining the back with central air units, which would create noise and just generally be obnoxious for everyone here and in the surrounding buildings. In general, it seems that the goal here is to try and squeeze as much onto the land as possible, without consideration of anything or anybody else, and that is distressing.

As I said before, I am generally in support of development, and will always support development in Portland \*when it is done right. \*Contrary to the accusations made by their engineering firm in the last paragraph of their recent response (which were out of line, in my opinion), I think people in this building and neighborhood support development on that land, but \*only if it is done right\*. I do not think anyone here is convinced this proposal passes that test yet.

Thanks

Chris



**From:** Hallie Gilman <hallie.gilman@gmail.com>  
**To:** <bab@portlandmaine.gov>, <JF@portlandmaine.gov>  
**CC:** Ned Flint <info@nedflint.com>, Dave Marshall <marshalldistrict2@gmail.com>, Hallie Gilman <hallie.gilman@gmail.com>  
**Date:** 11/6/2013 5:36 PM  
**Subject:** Comments re 133 York Street

Dear Ms. Barhydt, Ms. Fraser, and Member of the Portland Planning Board:

We write to submit comments relating to the proposed development at 133 York Street and appreciate the opportunity to do so. We are the owners of the adjacent property to the west of the proposed development, a single-family home at 29 Park Street. As reflected in the application materials, Ned attended the public meeting held on May.

The property at 133 York Street is certainly ripe for investment, but the current proposal may not be quite ripe for approval. We are concerned that the developer has not returned our call (placed in May) - even after saying he would do so at the May meeting - and has sent surveyors onto our property without prior notice or permission. In evaluating the proposal, we would like the Planning Board to consider these few comments, made in response to the materials now available on the Planning Board website:

- *\*Height.\** The Sept. 6 Staff Memo indicates that there are "no windows facing the proposal site" on the east side of our property (Staff Memo at 3). That is *\*almost\** correct. We do have one window on the third floor that will directly face the new development. That third floor is part of the living space of our house (it is not an attic window) and we request an assessment and/or simulation of what impact the increased height (we understand to be 6-8.5 additional feet on the west end of the proposed building) will have on that window and the available light the house receives through it, particularly as the distance between the our house and the proposed structure will be very small.
- *\*Fencing.\** We very much appreciate the Staff Memo comments and recommendations regarding the fencing between our property and the proposed development. As the plans and photos reflect, we have a substantial fence located on or near the property line (the fencing continues on the south and west sides of our property). Our expectation, which appears to be reflected in the plans, is that that fence will need to be removed during construction, particularly when the large tree is removed, as the tree has grown into the fence. But we have not had any communication from the developer regarding the timing of that fence removal, the duration of the removal, or how the fence between our properties will be replaced. We strongly urge the issuance of any approval or permit be tabled until (or at least conditioned upon) the terms of the fence removal and replacement have been worked out between the developer and us. We think this is consistent with the recommendations of the Staff Memo (at 6, 9) and the City Arborist (at Staff Memo Attachment 8). We would be happy to work with the developer and/or City officials to figure out the best fence replacement plan.
- *\*Easement.\** Woodard & Curran has identified a need for the developer to obtain access rights or construction easements to our property (see

Staff Memo, Attachment 3.2, item 7). (And it is not clear how the fence could be removed without such an easement or agreement.) We have also heard a rumor that the developer has asserted he has such easements in place with us. Just in case there is any confusion on the record: we have never heard of any need for an easement of any kind, we have not been asked for one by the developer and we have not agreed to one. To the extent any such access agreement or easement is required for the proposed project, we strongly recommend that any permit or approval be tabled until such an easement or agreement has been reached.

These items are critically important to us and our continued enjoyment of our property, of course. But we view these three conditions or requirements as very achievable and should not ultimately stand in the way of the appropriate development of 133 York Street. We plan to attend the meeting on Nov. 12 and look forward to learning more about next steps.

Thank you for all you do for our City.

Sincerely,  
Hallie Flint Gilman and Ned Flint