

Comments submitted 8/30/12

City of Portland  
Development Review Application

Planning Division Transmittal Form

**Application Number:** 2013-187      **Application Date:** 07/26/2013  
**CBL:** 044 A029001      **Application Type:** Level III Site Plan Under 50,000 sq f  
**Project Name:** 6 Unit Building  
**Address:** 133 YORK ST      *condos*  
**Project Description:** Removal of existing structure and replace with a 6 unit bld.  
**Zoning:** R6

**Other Required Reviews:**

<input type="checkbox"/> Traffic Movement	<input type="checkbox"/> 14-403 Streets	<input type="checkbox"/> Housing Replacement
<input checked="" type="checkbox"/> Storm Water	# Units _____	<input type="checkbox"/> Historic Preservation
<input checked="" type="checkbox"/> Subdivision	<input type="checkbox"/> Flood Plain	<input type="checkbox"/> Other:
# Lots <u>6</u>	<input type="checkbox"/> Shoreland	
<input type="checkbox"/> Site Location	<input type="checkbox"/> Design Review	
# Unit _____		

**Distribution List:**

<b>Planner</b>	Jean Fraser	<b>Parking</b>	John Peverada
<b>Zoning</b>	Marge Schmuckal	<b>Design Review</b>	Alex Jaegerman
<b>Traffic Engineer</b>	Tom Errico	<b>Corporation Counsel</b>	Danielle West-Chuhta
<b>Civil Engineer</b>	David Senus	<b>Sanitary Sewer</b>	John Emerson
<b>Fire Department</b>	Chris Pirone	<b>Inspections</b>	Tammy Munson
<b>City Arborist</b>	Jeff Tarling	<b>Historic Preservation</b>	Deb Andrews
<b>Engineering</b>	David Margolis-Pineo	<b>DRC Coordinator</b>	Phil DiPierro
		<b>Outside Agency</b>	

Comments needed by 9/6/2013

*Panel 13 of 17*  
*Zane*

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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

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## MEMORANDUM

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**To:** FILE  
**From:** Jean Fraser  
**Subject:** Application ID: 2013-187  
**Date:** 8/30/2013

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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 being 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

Applicant:

Address:

133 York St

Date: 8/30/13

C-B-L: 044-A-029 e31

CHECK-LIST AGAINST ZONING ORDINANCE

Date -

Zone/Location - R-6 - regular not in full

Interior or corner lot -

Proposed Use/Work - To Demo An Existing 2 fam & replace with 6 <sup>res</sup> units

Sevage Disposal - City

Lot Street Frontage - 40' min req - 27.2' -  
of existing lot

Front Yard - 10' min - 13.85' scaled

Rear Yard - using 14-433 is bettering

Side Yard - using 4-433 5' for side & rear yds - 5' & 11' shown

Projections -

Width of Lot - 40' min ok

Height - 45' MAX - 36.5' to Joist beam not top of Joist

Lot Area - 4,500 sq ft - 7483 sq ft given

Lot Coverage/Impervious Surface - 50% max -

Area per Family - 1000 sq ft for 1st 3 unit 3000  
1200 sq ft for each after 3000  
6600 sq ft min

Off-street Parking - Six req (on Pen) - Six shown

Loading Bays -

Site Plan - 2013-107

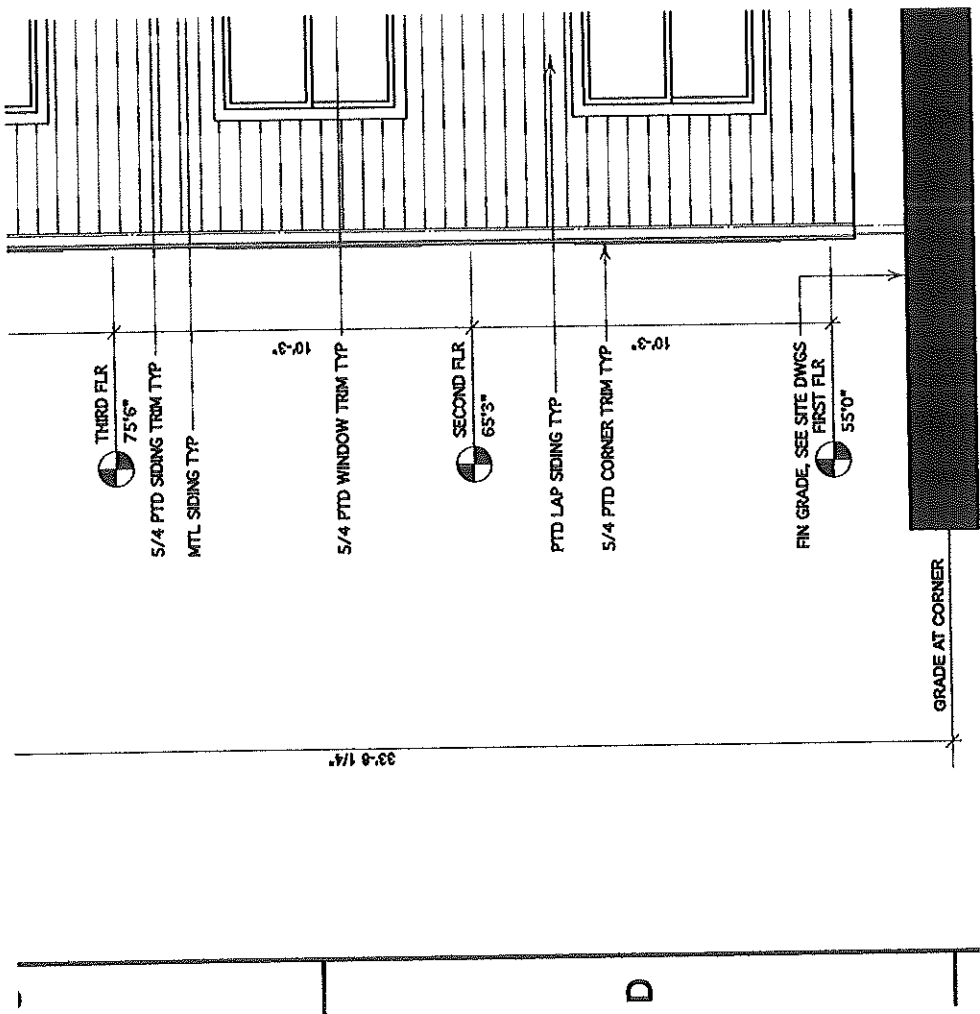
Shoreland Zoning/Stream Protection - N/A

Flood Plains - panel 13 zone X 25.56% per Thom map figures

Open Space Ratio: 20% - min



6/12/11  
Swp



Back side of Bldg  
(upper grade of D)

## Marge Schmuckal - 133 York St

**From:** Marge Schmuckal  
**To:** Barbara Barhydt  
**Date:** 8/8/2013 12:59 PM  
**Subject:** 133 York St

Hi Barbara,

I have reviewed section 14-433 and how it allows a building addition located within 5' of the side and rear yards if the principal building existed as of July 19, 1988 and the normal applicable yard requirements cannot be met. The current principal structure can be rebuilt within the existing footprint. The applicant is choosing the better the rear setback for a consistent 5 foot rear setback.

You can move the application on for further review under site plan.

Sorry for the delay,  
Marge

## Marge Schmuckal - 133 York- R-6 infill - open space requirement

**From:** Jean Fraser  
**To:** Barhydt, Barbara; Schmuckal, Marge  
**Date:** 8/16/2013 4:35 PM  
**Subject:** 133 York- R-6 infill - open space requirement

Barbara and Marge

I am trying to advise the applicant as whether we need more info/calculations to be submitted asap.

The lot is 7,483 sq ft. with 6 units and so this falls under the "small residential lot development" provisions which varies some of the dimensional requirements.

I see that under the small lot infill there is an *open space requirement* (quoted below), which I assume should be substituted for the "open space ratio" that applies generally. Since each unit has a small south -facing outdoor deck (that meets the design standards) it would seem that they meet this requirement.

Please confirm that I am looking at this correctly.  
thanks  
Jean

*Open space requirement:* All lots used for residential purposes shall provide an attached exterior deck, porch, patio or balcony for each dwelling unit, except where a designated open space equal to ten (10) percent or more of the lot area is located on site and maintained as open space, then the number of exterior decks, porches, patios or balconies may be reduced by up to fifty (50) percent. The designated open space, if provided, shall have a minimum width and length of at least fifteen (15) feet, a slope of no greater than ten (10) percent and shall be used exclusively as recreational open space i.e. it shall not be used for vehicular circulation, parking, etc.. All required decks, porches, patios or balconies shall meet the requirements of the Planning and Development Design Manual.



5570 - 7483 = 74,94

## PROJECT DATA

(The following information is required where applicable, in order complete the application)

<b>Total Site Area</b>	7,402 sq. ft.
<b>Proposed Total Disturbed Area of the Site</b>	
<small>(If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with DEP and a Stormwater Management Permit, Chapter 500, with the City of Portland)</small>	
<b>IMPERVIOUS SURFACE AREA</b>	
• Proposed Total Paved Area	3,235 sq. ft.
• Existing Total Impervious Area	1,918 sq. ft.
• Proposed Total Impervious Area	5,570 sq. ft.
• Proposed Total Impervious Area	5,570 sq. ft.
• Proposed Impervious Net Change	3,652 sq. ft.
<b>BUILDING AREA</b>	
• Proposed Building Footprint	2,335 sq. ft.
• Proposed Building Footprint Net change	417 sq. ft.
• Existing Total Building Floor Area	9,424 sq. ft.
• Proposed Total Building Floor Area	9,424 sq. ft.
• Proposed Building Floor Area Net Change	(yes or no)
• New Building	
<b>ZONING</b>	
• Existing	R-6
• Proposed, if applicable	
<b>LAND USE</b>	
• Existing	Residential
• Proposed	Residential
<b>RESIDENTIAL, IF APPLICABLE</b>	
• Proposed Number of Affordable Housing Units	0
• Proposed Number of Residential Units to be Demolished	2
• Existing Number of Residential Units	2
• Proposed Number of Residential Units	6
• Subdivision, Proposed Number of Lots	1 Lot, 6 Units
<b>PARKING SPACES</b>	
• Existing Number of Parking Spaces	2
• Proposed Number of Parking Spaces	6
• Number of Handicapped Parking Spaces	0
• Proposed Total Parking Spaces	6
<b>BICYCLE PARKING SPACES</b>	
• Existing Number of Bicycle Parking Spaces	0
• Existing Number of Bicycle Parking Spaces	0
• Proposed Number of Bicycle Parking Spaces	2
• Total Bicycle Parking Spaces	2
<b>ESTIMATED COST OF PROJECT</b>	<b>\$1,225,000.00</b>

# 133 York Street

File: 13105

## Project Description

This project includes the removal of an existing 2 unit residential structure at 133 York Street and the construction of a 6 unit residential structure. The 6 units will be in a single structure with a footprint of 26' x 89'-6". Parking will be provided under the units.

The site is located within an existing neighborhood of multiple unit buildings. It is adjacent the recently constructed Harborview Townhomes project and located behind the recently renovated Harborview Flats on York Street. Along our driveway are a multifamily house of three units and a single family home. Behind the site is McCormack Place, Condominiums.

The architecture of the building is a modern style using traditional materials. Each of the three floors will have two units, accessed by a central staircase. Each unit will have a small deck on the south side.

Utilities will be installed in the same general location as the existing utilities. The water service will be from York Street and upgraded for a sprinkler system. The power and cable service comes from Park Street. The sewer service will utilize the existing pipe from York Street.

The schedule for the project is anticipated to have approvals this summer with construction in the fall. Occupancy would occur next spring.

## Permits Required

This project will require approval from the City of Portland under the Subdivision Ordinance and Site Plan Approval. No state or federal approvals are required.

## Zoning

The site is in the R-6 zone. It allows 1 unit per 1,000 sq. ft. The lot has an area of 7,483 sq. ft. The setbacks are based off the existing structure. It is currently 1½ to 2' from the boundary lines. This project will make the structure more conforming. It is located 5' from the side and rear boundary lines. The 5' is based on the additions to non-conforming structure provisions. The east end of the building is 11 feet from the boundary in conformance with a 3 story structure.

The height of the structure varies. The west end consists of 8' high ceilings in the units for a maximum height of 36'-6" feet. The east end has 9' ceilings in the units for a maximum height of 39'-6" feet.

133 York Street  
File: 13105

**Easements**

This project benefits from a sewer easement across Harborview Flats property. No easements burden this property.

**Waivers**

Section 4.6.1 – Trees: 1/Unit in City Right-of-Way. There is limited right-of-way for the six trees.

**Traffic**

This project will generate approximately 58 trips per day with 6 in the peak PM and AM hours. The impact of traffic on York Street will be minimal.

There is adequate sight distance at the end of the driveway on York Street.

**Significant Natural Features**

This site has been fully developed as a residential property for many decades. It has common residential landscaping. There are no significant natural features on site.

**Master Plan Compliance**

This project meets the City's Master Plan goal of providing more housing on the peninsula. It will provide a vibrant housing opportunity for the neighborhood. This will provide housing for an economically diverse population in the area, with a multi-family high density development. This maximizes the resources of the City's infrastructure on a small lot. This project meets the goals of Portland's Housing: Sustaining Portland's Future report.

**Neighborhood Meeting**

Attached are the materials for the neighborhood meeting, held May 17, 2013.

**Solid Waste Management**

The demolition and construction waste will be disposed of at the Riverside facility by EcoMaine. As much as possible will be recycled. We estimate this to be approximately 400 cy.

**133 York Street**  
**File: 13105**

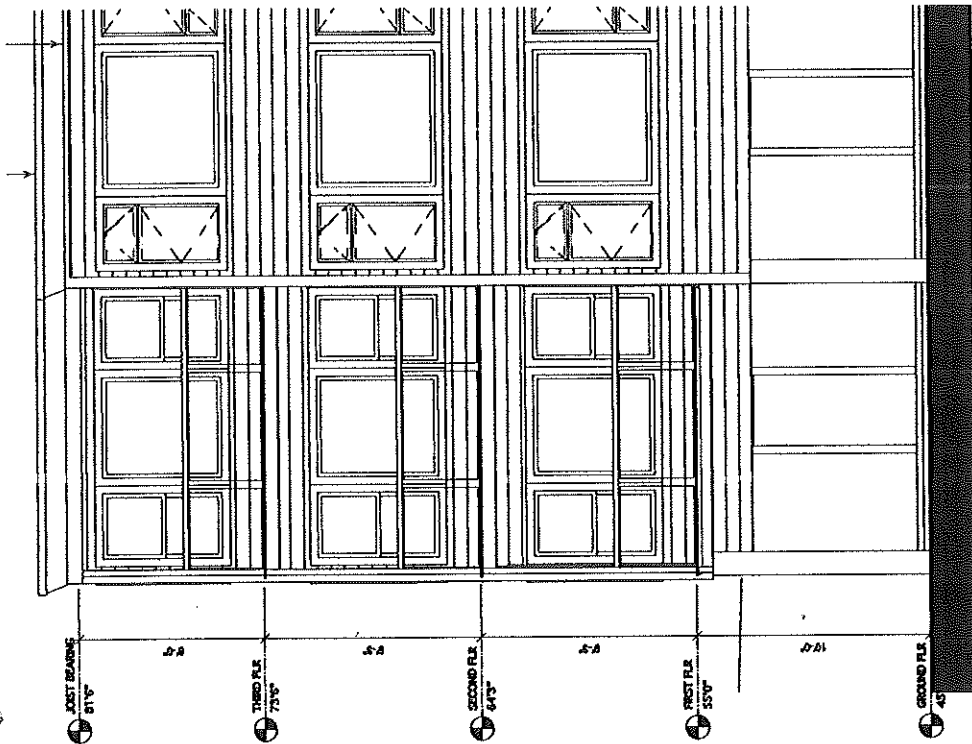
The household waste will be stored in the lower level in small rolling units for disposal by a private hauler.

**Tree Preservation**

There are two trees on site that are significant. The one on the west side of the site will be removed to construct a retaining wall in that location. The maple at the northeast corner of the site will be preserved. The limbs will be trimmed where they interfere with the building. The off site tree in the northwest section of the site will be trimmed to allow construction of the structure.

**Soil Survey**

Attached is a medium intensity soil survey prepared by the Cumberland County Soil and Water Conservation District. The soils on site are Hinckley (HIC), which are suitable for the proposed development.



81.5  
 - 45.0  
 -----  
 36.5



109.25  
 72.75  
 30  
 -----  
 36.50



LOCATION PLAN

**CITY OF PORTLAND  
SITE PLAN AND SUBDIVISION NOTES**

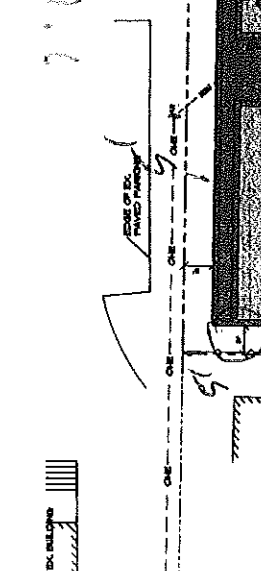
1. LANDSCAPING SHALL MEET THE ARCHITECTURAL, MECHANICAL AND ELECTRICAL (A.M.E.) REQUIREMENTS OF PORTLAND, MAINE AND SHALL BE SUBJECT TO THE APPROVAL OF THE CITY ENGINEER AND THE PORTLAND PLANNING BOARD.
2. THE SITE SHALL BE DEVELOPED AND MAINTAINED AS SHOWN ON THE SITE PLAN. APPROVAL OF THE PLANNING BOARD IS REQUIRED FOR ANY CHANGES TO THE SITE PLAN, INCLUDING BUT NOT LIMITED TO CHANGES IN LOT AREA, ACCESS, SIZE, LOCATION, AND SPACING OF PARKING AREAS AND SIDE OF SIDEWALK.
3. ALL SIDEWALKS SHALL BE CONCRETE.
4. SIDEWALKS AND DRIVEWAYS SHALL BE FINISHED AND BUILT WITH TOPSOIL AND ALL OTHER CONSTRUCTION SHALL BE FINISHED WITH TOPSOIL AND FINISHED WITH TOPSOIL AND FINISHED WITH TOPSOIL.
5. ALL SIDEWALKS SHALL BE FINISHED WITH TOPSOIL AND FINISHED WITH TOPSOIL AND FINISHED WITH TOPSOIL.
6. PRIOR TO CONSTRUCTION A PRELIMINARY SURVEY SHALL BE CONDUCTED BY THE CONTRACTOR TO VERIFY THE LOCATION OF ALL UTILITIES AND TO OBTAIN THE NECESSARY PERMITS FROM THE CITY ENGINEER AND THE PORTLAND PLANNING BOARD.
7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY ENGINEER AND THE PORTLAND PLANNING BOARD.
8. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY ENGINEER AND THE PORTLAND PLANNING BOARD.
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10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY ENGINEER AND THE PORTLAND PLANNING BOARD.

**ZONE INFORMATION**

ZONE	PERMITTED USES	REQUIREMENTS	PROVIDED
RESIDENTIAL	RESIDENTIAL	MINIMUM LOT AREA: 10,000 SQ. FT.	MINIMUM LOT AREA: 10,000 SQ. FT.
RESIDENTIAL	RESIDENTIAL	MINIMUM LOT AREA: 10,000 SQ. FT.	MINIMUM LOT AREA: 10,000 SQ. FT.
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RESIDENTIAL	RESIDENTIAL	MINIMUM LOT AREA: 10,000 SQ. FT.	MINIMUM LOT AREA: 10,000 SQ. FT.

**GENERAL NOTES**

1. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE PORTLAND PLANNING BOARD REGULATIONS AND THE PORTLAND PLANNING BOARD REGULATIONS.
2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY ENGINEER AND THE PORTLAND PLANNING BOARD.
3. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY ENGINEER AND THE PORTLAND PLANNING BOARD.
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10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE CITY ENGINEER AND THE PORTLAND PLANNING BOARD.



FOR SITE PLAN LAYOUT SEE SHEET C3

**GRAPHIC SCALE**



**THESE SHEETS UNITS CREATE A SUBDIVISION. THE CITY REVIEW IS FOR SITE AND SUBDIVISION APPROVAL.**

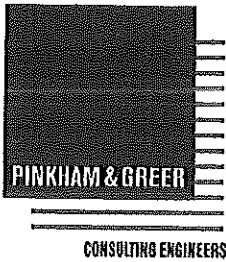
NO.	DATE	DESCRIPTION
1	JULY 24, 2013	ISSUED FOR REVIEW
2	AUGUST 1, 2013	REVISED
3	AUGUST 15, 2013	REVISED

133 YORK LLC  
170 MARGINAL WAY, SUITE 202  
PORTLAND, MAINE  
133 YORK STREET  
YORK STREET, PORTLAND MAINE

SITE PLAN MAP 44/10000 4/0709 29 & 31  
DATE: JULY 24, 2013  
DRAWN BY: JSC  
CHECKED BY: JSC  
PROJECT: 13300  
DATE: JULY 24, 2013  
CHK BY: JSC

C1.1

7/25/13



Ms. Barbara Barhydt  
July 24, 2013  
Page 2 of 2  
File: 13105

We hope to salvage some of the existing landscape materials on site. This touch of history will be a continuation of the spirit of the site.

Also attached are minutes of our neighborhood meeting. Not all of our neighbors are pleased with the project, but do have an understanding of its scope.

Please review our application and let us know if you have any concerns. We look forward to meeting with the Board.

Sincerely,

PINKHAM & GREER

A handwritten signature in black ink, appearing to read "Thomas S. Greer".

Thomas S. Greer P.E.

Enclosures

cc: Jeremy Benn/Joe Flynn, Bob Howe, File

TSG/rjs

**Marge Schmuckal - Re: urgent for Mon Sept 9: 133 York comments**

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**From:** Marge Schmuckal  
**To:** Jean Fraser  
**Date:** 9/9/2013 10:14 AM  
**Subject:** Re: urgent for Mon Sept 9: 133 York comments  
**CC:** Barbara Barhydt

Jean,

I have only used the information that the applicant supplied on the submittal form. If the figures are in doubt we can always ask to have them specifically clarified.

Marge

>>> Jean Fraser 9/5/2013 2:34 PM >>>

Marge

At Dev Rev we wanted to know whether your calculation of the open space (being 25.56%) took account of their revised plan showing an area of rip rap at the west end of the building. The little bit of OS on the east side does not look like 25% ( or 20%) so Barbara suggested I ask you to give me some background calculations so I can explain to the Board.

Needed today (Monday Sept 9th when I hope you will be reading this) so I can update the Board tomorrow afternoon.

Many thanks

Jean



# HKTA / architects

September 5, 2013

To: Tom Greer  
 Pinkham and Greer. Consulting Engineer

From: Robert Howe

About: 133 York Street – Site Plan Review Update

Tom,

This memo follows up on the design review comments offered by Jean Fraser on August 22 and Barbara Barhydt’s emailed comments on August 30 concerning the above project.

1. The entrance is deliberately understated. The design takes a minimal approach to this feature for it occupies no particular significance to a streetscape and acknowledges the rather private nature of these owner units and the structure’s juxtaposition to the surrounding buildings. The client’s intention is to create a more “loft” like environment. So, in keeping with the design theme, unnecessary embellishments run counter to the design intent.
2. The height difference in the two halves reflect what we believed were direction given by city staff in review of zoning requirements and in the belief the height more accurately responded to the height of the existing building. It was determined with review that it was more advantageous to keep that portion lower so it conforms more closely to the expansion possibilities of the existing structure.
3. For clarification about the building height above grade, we offer the following table. These dimensions are drawn directly from the completed construction drawings.

	West End	East End
South Elevation (Front)	38’- 2 ½”	41’- 2 ½”
North Elevation (Back)	30’- 4 ¼”	33’- 4 ¼”
Grade at Sides	34’- 9 ¾”	37’- 9 ¾”
Existing (Front)	31’- 1”	
Existing (Back)	23- 6”	
Difference in height between existing and new at West End	6’- 8 ½”	

## Marge Schmuckal - 133 York St

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**From:** Marge Schmuckal  
**To:** Barbara Barhydt  
**Date:** 8/8/2013 12:59 PM  
**Subject:** 133 York St

Hi Barbara,

I have reviewed section 14-433 and how it allows a building addition located within 5' of the side and rear yards if the principal building existed as of July 19, 1988 and the normal applicable yard requirements cannot be met. The current principal structure can be rebuilt within the existing footprint. The applicant is choosing the better the rear setback for a consistent 5 foot rear setback.

You can move the application on for further review under site plan.

Sorry for the delay,  
Marge

Assessor's Office | 350 Congress Street | Portland, Maine 04101 | Room 113 | (207) 874-8486

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This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

**Current Owner Information:**

**Services**

Applications

Doing Business

Maps

Tax Relief

Tax Roll

Q & A

**CBL** 044 A029001  
**Land Use Type** TWO FAMILY  
Verify legal use with Inspections Division  
**Property Location** 133 YORK ST  
**Owner Information** JMB PROPERTIES LLC  
 110 MARGINAL WAY STE 292  
 PORTLAND ME 04101  
**Book and Page** 30443/339  
**Legal Description** 44-A-29  
 YORK ST 133  
 MCCORMICK PLACE  
 5270 SF  
**Acres** 0.121

**Current Assessed Valuation:**

browse city services a-z

browse facts and links a-z

**TAX ACCT NO.** 6374 **OWNER OF RECORD AS OF APRIL 2013**  
 JMB PROPERTIES LLC  
**LAND VALUE** \$152,500.00 110 MARGINAL WAY STE 292  
**BUILDING VALUE** \$63,500.00 PORTLAND ME 04101  
**NET TAXABLE - REAL ESTATE** \$216,000.00  
**TAX AMOUNT** \$4,192.56

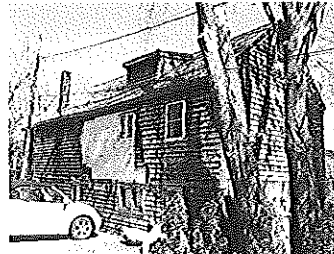


Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

**Building Information:**

Best viewed at 800x600, with Internet Explorer

**Building 1**  
**Year Built** 1804  
**Style/Structure Type** OLD STYLE  
**# Stories** 2  
**# Units** 2  
**Bedrooms** 3  
**Full Baths** 2  
**Total Rooms** 8  
**Attic** FULL FIN./WH  
**Basement** FULL  
**Square Feet** 2330



[View Sketch](#) [View Map](#) [View Picture](#)

**Outbuildings/Yard Improvements:**

**Building 1**  
**Year Built** 1985  
**Structure** SHED-FRAME  
**Size** 8X10  
**Units** 1  
**Grade** D  
**Condition** F

**Sales Information:**

Sale Date	Type	Price	Book/Page
3/5/2013	LAND + BUILDING	\$197,500.00	30443/339
8/30/2012	LAND + BUILDING	\$172,000.00	29888/223
1/31/2005	LAND + BUILDING	\$206,800.00	22276/211

[New Search!](#)

**Sec. 14-432. Swimming pools.**

Outdoor swimming pools accessory to dwellings, apartment houses, hotels or motels shall be permitted on lots, provided the following conditions are met:

(a) No swimming pool shall be sited in the front yard.

(b) No part of any swimming pool shall be located closer than ten (10) feet from the principal structure, nor closer than ten (10) feet from the side or rear lot lines.

(Code 1968, § 602.19.K; Ord. No. 271-77, 5-16-77; Ord. No. 90-88, 7-19-88)

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\*Editor's note—Ord. No. 90-88, adopted July 19, 1988, amended § 14-432 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 90-88.  
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**Sec. 14-433. Lots of record and accessory structure setbacks for existing buildings.**

Any lot of record as of June 5, 1957, and held under separate and distinct ownership from adjacent lots and having a street frontage of forty (40) feet, or to which a means of access has been previously approved by the city council as provided elsewhere in this article, may be considered a buildable lot in any residential zone except as provided below for island residential zones, with a minimum lot size of five thousand (5,000) square feet, except that a lot in the R-6 zone may have a minimum lot size of three thousand (3,000) square feet, provided that the applicable yard dimensions can be met.

A lot in the R-1, R-2, R-3, R-4, R-5, R-5A or R-6 zones that was described in a subdivision plat approved by the Planning Board after June 5, 1981, or a lot of record that conformed to the applicable lot size requirement, lot width and street frontage as of June 5, 1984, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.

Where such a lot has a principal structure which existed as of July 19, 1988, an accessory structure or building addition may be located within the following side and rear yards, provided that the normal applicable yard requirements cannot be met provided,

however, that less restrictive zoning requirements which meet the requirements contained within 14-139(b) for residential small lot development shall apply:

a. R-1, R-2:

Rear yard: Ten (10) feet.

Side yard: Five (5) feet.

b. R-3, R-4, R-5, R-5A, R-6:

Rear yard: Five (5) feet.

Side yard: Five (5) feet.

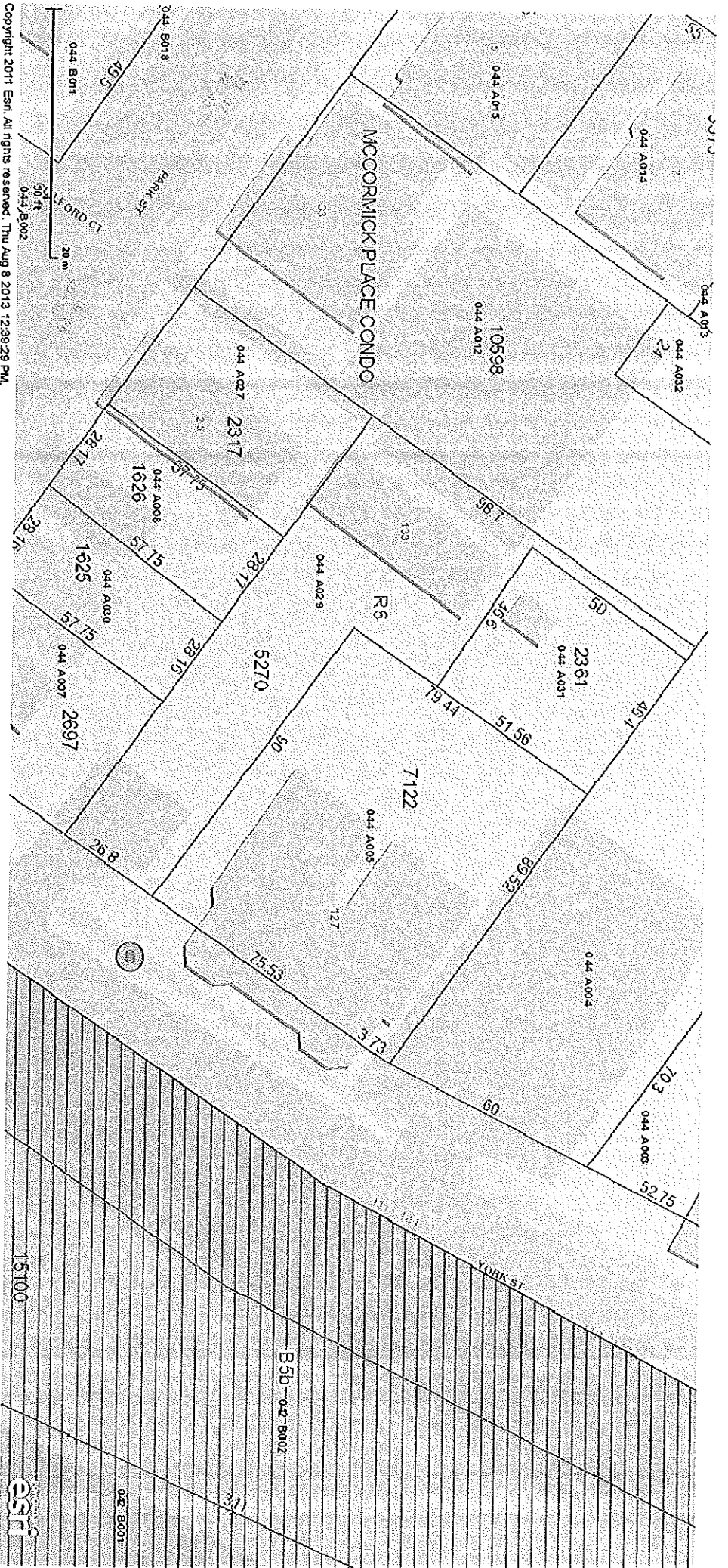
Any detached or accessory structure in the R-4 or R-6 zones, with a ground coverage exceeding two hundred fifty (250) square feet and which was in existence on January 1, 1940, may be converted to dwelling uses without meeting front, side or rear yard setbacks, provided there is no enlargement of any nonconforming portion of the existing building footprint and provided the conversion will conform to the minimum land area per dwelling unit.

ISLANDS Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.

A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.

(Code 1968, § 602.19.L; Ord. No. 539-84, 5-7-84; Ord. No. 32-85, § 1, 7-15-85; Ord. No. 91-88, 7-19-88; Ord. No. 310-89, 1-30-89; Ord. No. 166-89, 12-11-89)

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\*Editor's note—Ord. No. 91-88, adopted July 19, 1988, amended § 14-433 to read as herein set out. See also the editor's note to Art. III of this chapter



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**Marge Schmuckal - 133 York Street**

---

**From:** "Tom Greer" <TGreer@pinkhamandgreer.com>  
**To:** "Marge Schmuckal" <MES@portlandmaine.gov>  
**Date:** 3/27/2013 1:46 PM  
**Subject:** 133 York Street  
**CC:** <jeremy@joeflynnrealestate.com>, <joe@joeflynnrealestate.com>, "Paul Pec..."

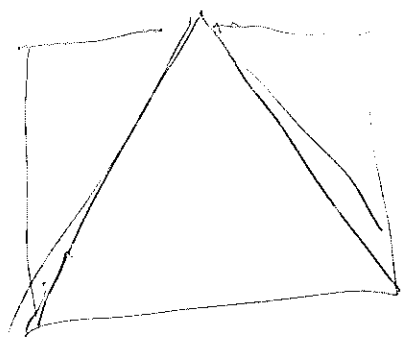
4/1/13 *not previously*

Hi Marge,

I understand from Ann Machado that you have been on vacation. Hopefully it was fun and relaxing. We would like to meet with you and Ann to review the possible building envelop for 133 York Street. If we could schedule it for Monday afternoon April 1<sup>st</sup> that would be good. Thanks for your consideration of my request.

**Tom Greer**

Pinkham and Greer, Consulting Engineers  
28 Vannah Ave, Portland Me. 04103  
207-781-5242 voice, 207-781-4245 fax  
tgreer@pinkhamandgreer.com



## Marge Schmuckal - 133 York Street

---

**From:** Marge Schmuckal  
**To:** Jeff Levine  
**Date:** 2/27/2013 2:52 PM  
**Subject:** 133 York Street  
**Attachments:** 133 york st plot plan.pdf

Hi Jeff,

I just got done meeting with Paul Peck and two other partners in his project. I have attached a copy of a mortgage survey that we used for discussion purposes. Currently the lot is a pork chop lot with an existing two family snuggled up to the rear and side. They would like to demolish the existing two unit and rebuild and develop the lot for perhaps 6 residential dwelling units. The maximum density allowed on the lot would be six dwelling units. They are very much in the planning stages with no preconceived idea of what they will end up with.

One of the most important allowances that they were made aware of was for the front yard setback. In the R-6 zone, the setback is normally 10'. However, there is an allowance to average the buildings on either side of the lot and use that average for the setback. In this case, our GIS indicated that possibly the setback is 0'. That allows the applicant to pull the building forward to get the rear setback of 20' and better utilize the site. However, we also discussed what the ordinance allows for rebuilding in the same footprint within one year.

I did notify them of the requirement of subdivision and planning board reviews. When they actually get their plans better, I suggested that they come back in with their sketches. At that point I would bring in Barbara and you if you are available.

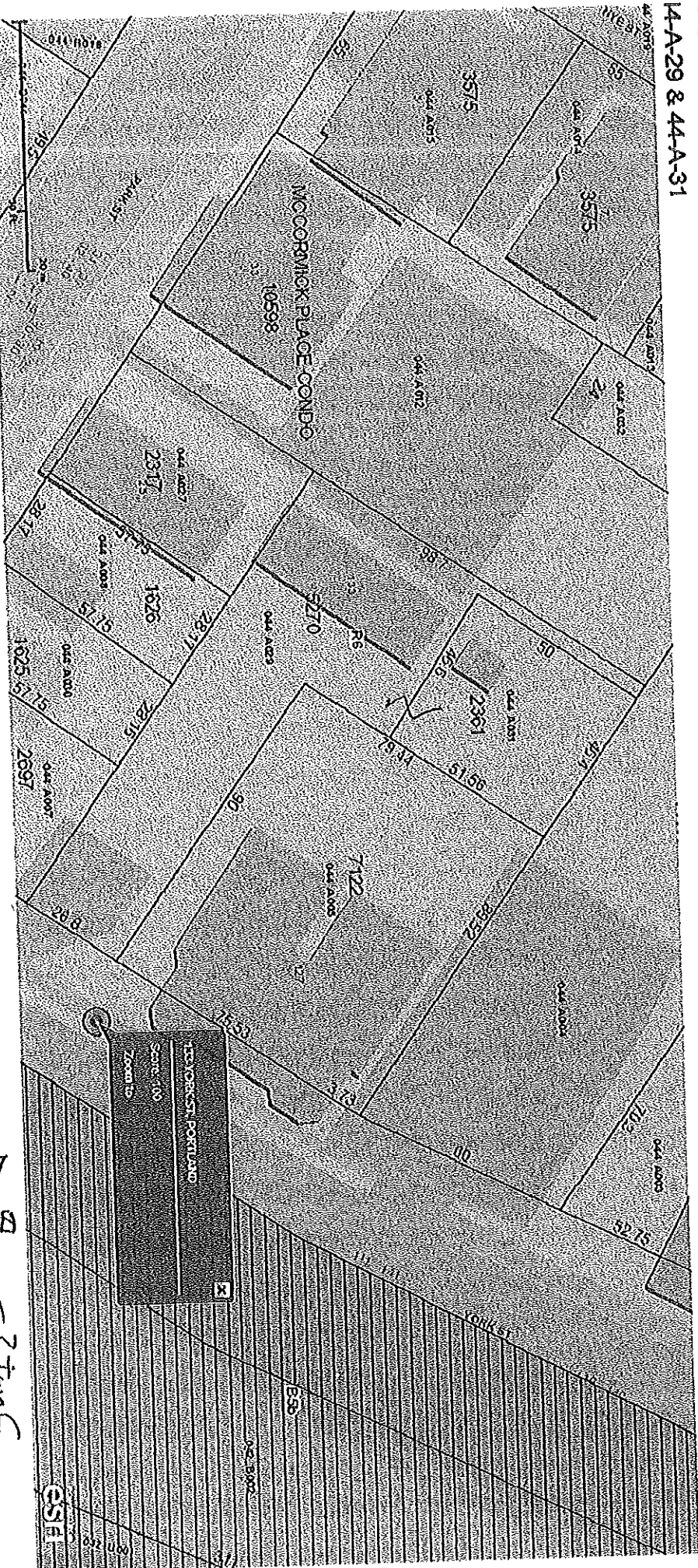
Let me know if you have any other questions.

Marge



# 133 YORK ST

14-A-29 & 44-A-31



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Under Same Name - 2 Separate Lots

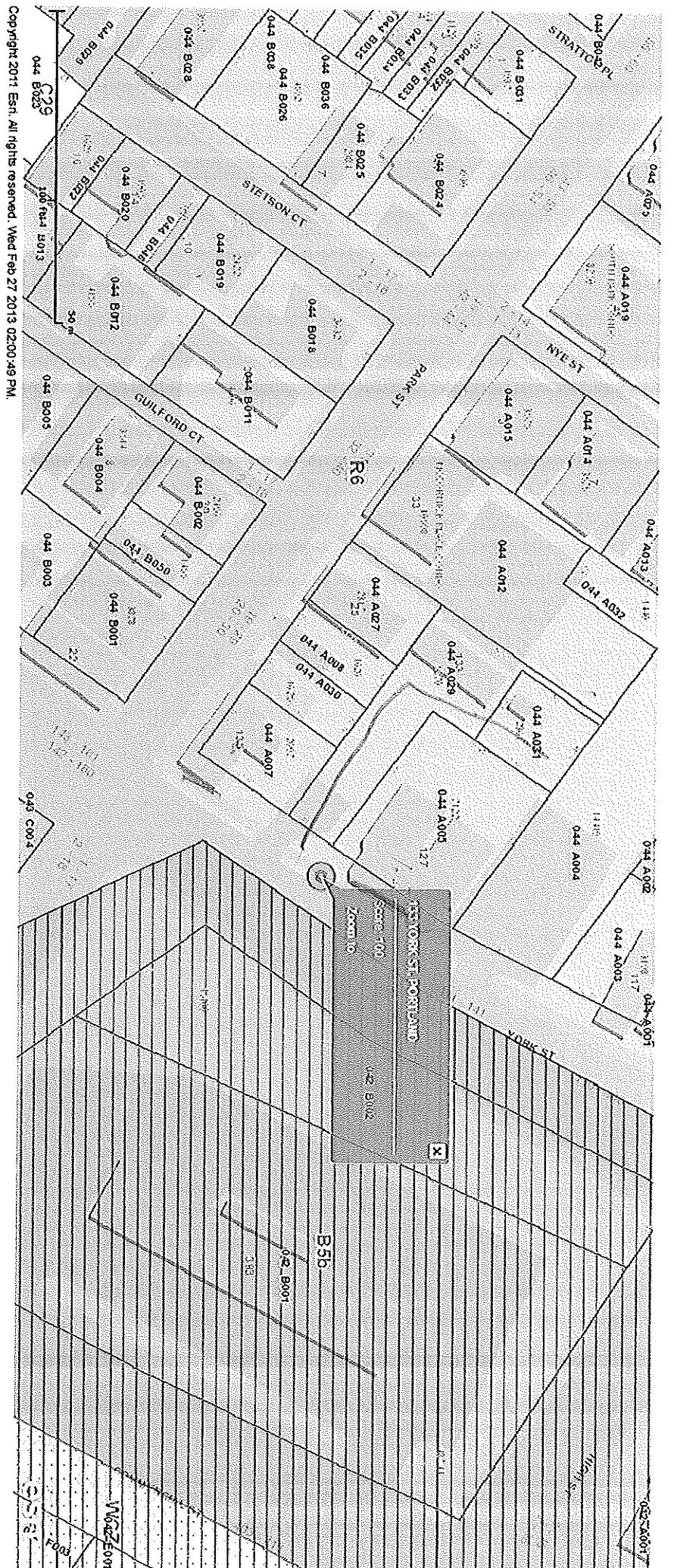
$$14-139(a)2.a$$

$$\begin{array}{r} 7631 \\ - 3000 \\ \hline 4631 \div 1200 = 3.859 \text{ a3} \end{array}$$

6 Du. Unit

44-A-29 = 5270  $\phi$  - ? Two for  
44-A-31 = 2301  $\phi$

7631 TOTAL (Assessors Numbers NOT AS UNITS)



Copyright 2011 Esri. All rights reserved. Wed Feb 27 2013 02:00:49 PM.

*Attaching front yard*

**Marge Schmuckal - Fwd: York St.**

**From:** Paul Peck <ppeck34@yahoo.com>  
**To:** "mschmuckal@portlandmaine.gov" <mschmuckal@portlandmaine.gov>  
**Date:** 2/24/2013 6:40 PM  
**Subject:** Fwd: York St.  
**CC:** <jlevine@portlandmaine.gov>  
**Attachments:** 2012 determination ltr.pdf

10'00  
 up stairs

Hi Marge. Would you be able to meet with me Tuesday to review this project. Thank you

Sent from my iPad

Begin forwarded message:

**From:** "Jeff Levine" <JLEVINE@portlandmaine.gov>  
**Date:** February 19, 2013 9:49:27 AM EST  
**To:** <ppeck34@yahoo.com>  
**Subject:** Re: Fwd: York St.

Some initial thoughts from Marge S. It does appear you would need a variance. Not immediately sure what your chances are, but perhaps the next step would be to talk to Marge about it.

best,

Jeff

Jeff Levine, AICP  
 Director  
 Planning & Urban Development Department  
 389 Congress Street 4th Floor  
 Portland, Maine 04101  
 Phone (207)874-8720  
 Fax (207)756-8258

[@portlandplan](http://www.portlandmaine.gov/planning)

>>> Marge Schmuckal 2/15/2013 3:16 PM >>>

Hi Jeff,

I know a couple of things about the lots in question. First, to answer the direct question, an applicant would have 1 year to demo the existing building and rebuild within the same footprint and volume without any appeal. The nonconformity section of Land Use allows that by right. But if the applicant wants to appeal, I would prefer to meet with him first to review what is being proposed. I would want to understand the entire project before just sending him to the appeal board.

Our records have a current application from November that shows Eric Edwards made some alterations to the two family.

I am also attaching a determination letter with attachments that I wrote July 2012.

But I can certainly talk to the owner about variances.

I hope this helps you,

Marge

>>> Jeff Levine 2/15/2013 2:37 PM >>>  
Thoughts?

Jeff Levine, AICP  
Director  
Planning & Urban Development Department  
389 Congress Street 4th Floor  
Portland, Maine 04101  
Phone (207)874-8720  
Fax (207)756-8258  
<http://www.portlandmaine.gov/planning>

@portlandplan

>>> Paul Peck <ppeck34@yahoo.com> 2/15/2013 12:42 PM >>>

Hi Jeff. I hope all is well. I am working on a small project at 133 York St. 44-A-29 dilapidated 2 unit and an adjoining vacant lot 44-A-31. The R6 zone allows 6.89 units but the develop-able land is narrow maybe 98x47. We were thinking about a 5 units maybe. The 2 unit sits right on the rear boundary line and will need to be turn down. In order to make the lot work I think we would need to have a variance from the set back requirements so that we would have no rear setback pretty much how the 2 units sits now. Can you please let me know who I can talk to about this and the hurdles if any in getting a variance. Thank you Jeff.

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

**Marge Schmuckal - Fwd: York St.**

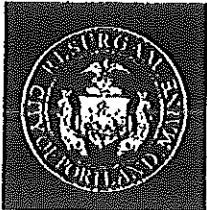
---

**From:** Jeff Levine  
**To:** Schmuckal, Marge  
**Date:** 2/24/2013 8:33 PM  
**Subject:** Fwd: York St.  
**Attachments:** Fwd: York St.

Can you schedule this meeting so I can attend if possible?

Jeff

Jeff Levine, AICP  
Director  
Planning & Urban Development Department  
389 Congress Street 4th Floor  
Portland, Maine 04101  
Phone (207)874-8430  
Fax (207)756-8258



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life* • [www.portlandmaine.gov](http://www.portlandmaine.gov)

*Jeff Levine - Director of Planning and Urban Development  
Marge Schmuckal, Zoning Administrator*

July 17, 2012

Todd M. Alexander  
Year 15, LLC  
3 Carroll Street  
Portland, ME 04101

RE: 133 York Street – 44-A-029 & 44-A-031 – R-6 Zone

Dear Mr. Alexander,

I am in receipt of your request for a determination concerning the property located at 133 York Street. The entire property is located in a R-6 residential zone. There are no other overlay zones on the property.

I have not been given a boundary survey (only a mortgage survey), so I am relying on what the Assessor's office has for the lot size at this time. Both parcels 44-A-029 & 44-A-031 are considered one lot for the purposes of development. The total lot size is 7,631 square foot in size. Using section 14-139(a)2.a of the R-6 Zone "Minimum (lot) area per dwelling unit", it appears that you could get a maximum of six (6) dwelling units on this property. This calculation is not taking into account section 14-136(a)2 which limits alterations of an existing residential structure. A final determination on allowable dwelling units will be made at the time of an application with floor plans. If the existing building is to be demolished and new building is to be constructed, then 14-139(a)2.a will be the sole determining factor for allowable number of dwelling units. Please note that the Land Use Zoning Ordinance is very prescriptive in it's wording and does not allow rounding up.

Section 14-139(a)4.a states that a front yard for a principal or accessory structure is ten (10) feet. However, the Ordinance goes on to state: "A front yard need not exceed the average depth of the front yards on either side of the lot". Therefore, the option for averaging the front yards of the buildings on either side of 133 York Street may be employed for the front along York Street. Because of the lot's configuration, the allowable averaging feature may be employed for the front along what is labeled Front-2 on the submitted mortgage survey.

As stated above, the two described parcels of 44-A-029 & 44-A-031 are considered one lot for purposes of development. Only the external property lines would be used for determining required setbacks.

A search of our records shows that the current legal use of the property at 133 York Street is a two family dwelling. Based only on zoning, there is no prohibition on demolishing the existing building on site. Please note that Division 29, Preservation and Replacement of Housing Units, is not enforced by the Zoning Administrator. That Ordinance is enforced by the "Planning Authority", which can mean the Director of Planning and Urban Development, Jeff Levine, or Alex Jaegerman, the Planning Division Director. However I will point out that the applicability section of the Ordinance, applies to "the loss of three or more dwelling units in a five year period...". The next paragraph does provide an exception to the Ordinance where the loss of fewer than three (3) dwelling units results in created surface parking. Therefore, my reading of this section of the Ordinance would allow you to demolish the existing two units and rebuild a new residential structure meeting current R-6 dimensional requirements without triggering any penalties under the Preservation and Replacement of Housing Units. It would not allow you to demolish the existing two residential units and create a parking lot as a new principal use without triggering the Replacement Housing Ordinance penalties.

If you have any questions regarding this letter, please do not hesitate to contact me at 874-8695.

Very truly yours,



Marge Schmuckal  
Zoning Administrator



**City of Portland, Maine - Building or Use Permit Application**  
 389 Congress Street, 04101 Tel: (207) 874-8703, FAX: (207) 8716

Job No: 2012-11-5328-ALTR	Date Applied: 11/2/2012	CBL: 044- A-029-001	
Location of Construction: 133 YORK ST	Owner Name: ERIK EDWARDS	Owner Address: 20 ROUNDABOUT DRIVE, SCARBOROUGH, ME 04074	Phone: 415-9397
Business Name:	Contractor Name: Hoyt Hel	Contractor Address: 15 Cumberland Ave., Portland, ME 04101	Phone: 240-9479
Lessee/Buyer's Name:	Phone:	Permit Type: BLDG ALT	Zone: R-6
Past Use: Two Family Dwelling	Proposed Use: Same: Two Family Dwelling - remodel the bathroom on the second floor - replace one window	Cost of Work: \$2,000.00	CEO District:
Proposed Project Description: Remodel bathroom		Fire Dept:  Signature: <i>[Signature]</i>	Inspection: Use Group: <i>2.3</i> Type: <i>SB</i> <i>IRC 09</i> Signature: <i>[Signature]</i>
Permit Taken By: Gayle		Zoning Approval Pedestrian Activities District (P.A.D.)	

1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.
2. Building Permits do not include plumbing, septic or electrical work.
3. Building permits are void if work is not started within six (6) months of the date of issuance. False informatin may invalidate a building permit and stop all work.

Special Zone or Reviews	Zoning Appeal	Historic Preservation
<input type="checkbox"/> Shoreland	<input type="checkbox"/> Variance	<input checked="" type="checkbox"/> Not in Dist or Landmark
<input type="checkbox"/> Wetlands	<input type="checkbox"/> Miscellaneous	<input type="checkbox"/> Does not Require Review
<input type="checkbox"/> Flood Zone	<input type="checkbox"/> Conditional Use	<input type="checkbox"/> Requires Review
<input type="checkbox"/> Subdivision	<input type="checkbox"/> Interpretation	<input type="checkbox"/> Approved
<input type="checkbox"/> Site Plan	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Conditions
<input type="checkbox"/> Maj <input type="checkbox"/> Min <input type="checkbox"/> MM	<input type="checkbox"/> Denied	<input type="checkbox"/> Denied
Date: <i>11/2/12</i>	Date: <i>[Signature]</i>	Date: <i>[Signature]</i>

**CERTIFICATION**

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE		DATE	PHONE





# APPLICATION FOR PERMIT

Class of Building or Type of Structure Third Class

Portland, Maine Nov 27, 1955

PERMIT ISSUED

00760  
NOV 27 1955

CITY OF PORTLAND

To the INSPECTOR OF BUILDINGS, PORTLAND, MAINE

The undersigned hereby applies for a permit to ~~alter~~ ~~repair~~ ~~maintain~~ ~~replace~~ the following building structure equipment in accordance with the Laws of the State of Maine, the Building Code and Zoning Ordinance of the City of Portland, plans and specifications, if any, submitted herewith and the following specifications:

Location 131 York St. (Rear) Within Fire Limits?        Dist. No.         
 Owner's name and address George A. Dimony, 131 York St. Telephone         
 Lessee's name and address        Telephone         
 Contractor's name and address Omar Telephone 3-9620  
 Architect        Specifications        Plans        No. of sheets         
 Proposed use of building 2-family dwelling No. families         
 Last use        " "        No. families         
 Material        No. stories 2 Heat        Style of roof        Roofing         
 Other buildings on same lot         
 Estimated cost \$ 100.00 Fee \$ 50

### General Description of New Work

To enlarge existing front porch one foot--approximately 5x6  
two story with roof over 30' front yard

DATE OF OCCUPANCY  
REQUIREMENT IS WAIVED

It is understood that this permit does not include installation of heating apparatus which is to be taken out separately by and in the name of the heating contractor. **PERMIT TO BE ISSUED TO**

owner

### Details of New Work

Is any plumbing involved in this work?        Is any electrical work involved in this work?         
 Is connection to be made to public sewer?        If not, what is proposed for sewage?         
 Has septic tank notice been sent?        Form notice sent?         
 Height average grade to top of plate 11' 6" Height average grade to highest point of roof         
 Size, front        depth        No. stories        solid or filled land?        earth or rock?         
 Material of foundation concrete piers at least 7" below ground or to ledge         
 Material of underpinning wood (hard pine) Thickness, top 8" bottom        collar         
 Material of underpinning wood (hard pine) Height 31' 6" Thickness 1x11  
 Kind of roof none Rise per foot        Roof covering         
 No. of chimneys        Material of chimneys        of lining        Kind of heat        fuel         
 Framing lumber—Kind hemlock Dressed or full size? dressed  
 Corner posts 1x8 Sills 2x6 Girt or ledger board?        Size         
 Girders        Size        Columns under girders        Size        Max. on centers         
 Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof span over 8 feet.  
 Joists and rafters: 1st floor 2x6, 2nd 2x6, 3rd       , roof 2x6  
 On centers: 1st floor 16", 2nd 16", 3rd       , roof 16"  
 Maximum span: 1st floor 6', 2nd 6', 3rd       , roof 6'  
 If one story building with masonry walls, thickness of walls?        height?       

### If a Garage

No. cars now accommodated on same lot        to be accommodated        number commercial cars to be accommodated         
Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building?       

APPROVED:

O.R. - 5/27/55 - 298

### Miscellaneous

Will work require disturbing of any tree on a public street? no  
Will there be in charge of the above work a person competent to

THIS IS NOT A BOUNDARY SURVEY

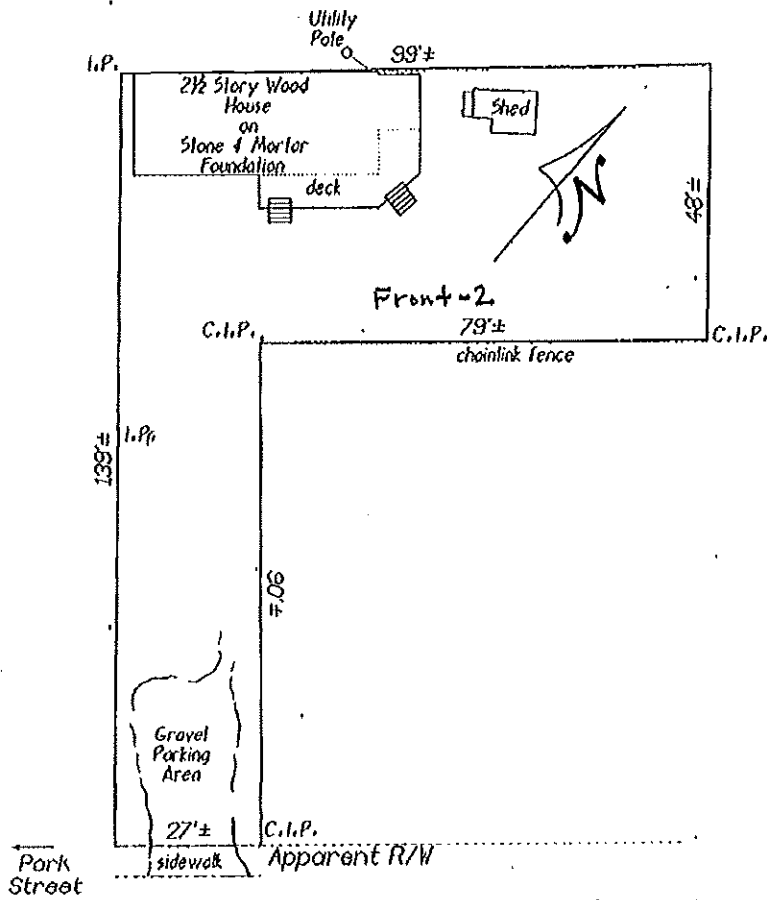
**INSPECTION OF PREMISES**  
 I HEREBY CERTIFY TO Douglas Title Co.

133 York Street  
 Portland, Maine

Job Number: 417-19  
 Inspection Date: 06-27-12  
 Scale: 1" = 30'

The monumentation is ~~not~~ in harmony with current deed description. *Deed is Vague*  
 The building setbacks are ~~not~~ in conformity with town zoning requirements. *'Grandfathered'*  
 The dwelling does not ~~appear~~ to fall within the special flood hazard zone as delineated by the Federal Emergency Management Agency.  
 The land does not ~~appear~~ to fall within the special flood hazard zone as indicated on community-panel # 230051 0013 B

BUYER: Year 15, LLC  
 SELLER: Bethany Ruth Cary



York Street  
 (bituminous)

*[Handwritten signature]*

THIS PROPERTY IS SUBJECT TO ALL RIGHTS AND EASEMENTS OF RECORD. THOSE THAT ARE EVIDENT ARE SHOWN. THIS PLAN MIGHT NOT REVEAL CONFLICTS WITH ABUTTING DEEDS.

**Bruce R. Bowdoin**  
 INCORPORATED  
 18 1/2 John Small Road  
 Chebeague Island, Maine 04017  
 Phone: (207) 846-1663  
 Fax: (207) 846-1664



PLAN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_ LOT \_\_\_\_\_  
 DEED BOOK 22276 PAGE 211 COUNTY Cumberland

THIS PLAN IS NOT FOR RECORDING Drawn by: *[Signature]*

**Marge Schmuckal - Re: York St.**

---

**From:** Marge Schmuckal  
**To:** Paul Peck  
**Date:** 2/26/2013 10:02 AM  
**Subject:** Re: York St.  
**CC:** Desiree Kelly; Jeff Levine; [jeremy@joefflynrealestate.com](mailto:jeremy@joefflynrealestate.com)

Ok - I can do 2:00 pm - Please note that we would be meeting now in Inspection Services on the 3rd floor.  
Marge

>>> Paul Peck <[ppeck34@yahoo.com](mailto:ppeck34@yahoo.com)> 2/26/2013 9:57 AM >>>  
Thank you Marge. How about 2 pm tomorrow or anytime thereafter . My car should be done by moon today I hope

Sent from my iPhone

On Feb 26, 2013, at 9:19 AM, "Marge Schmuckal" <[MES@portlandmaine.gov](mailto:MES@portlandmaine.gov)> wrote:

I can be available after 11:30 AM. Let me know when you can be available.  
thank you, I hope you can fix your car easily. That can be a pain.  
Marge

>>> Paul Peck <[ppeck34@yahoo.com](mailto:ppeck34@yahoo.com)> 2/25/2013 5:49 PM >>>  
Hi. I am sorry but I am stuck in ct. I was visiting my mom and my car broke. Can we meet Wednesday ? Thank you

Sent from my iPhone

On Feb 25, 2013, at 3:46 PM, "Marge Schmuckal" <[MES@portlandmaine.gov](mailto:MES@portlandmaine.gov)> wrote:

Hi Paul,  
We will be meeting on the 4th floor in Jeff Levine's office at 10:00 am tomorrow morning.  
Marge

>>> Marge Schmuckal 2/25/2013 12:47 PM >>>  
10:00 tomorrow morning would be good for us. We are trying to get a room on the 4th floor for our meeting. I will confirm with you.  
Marge

>>> Paul Peck <[ppeck34@yahoo.com](mailto:ppeck34@yahoo.com)> 2/25/2013 12:32 PM >>>  
Hi Marge. I am around all day so whatever works best for you all.

Sent from my iPhone

# CITY OF PORTLAND, MAINE

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## PLANNING BOARD

Stuart O'Brien, Chair  
Timothy Dean, Vice Chair  
Elizabeth Boepple  
Sean Dundon  
Bill Hall  
Carol Morrissette  
Jack Soley

January 7, 2014

Joe Flynn  
133 York, LLC  
110 Marginal Way Ste 292  
Portland, ME 04101

Thomas S Greer PE  
28 Vannah Avenue  
Portland, ME 04103

**Project Name:** Residential townhouse - 6 unit condominium  
**Project ID:** 2013-187  
**Project Address:** 133 York Street  
**CBL:** 44-1-29 &31  
**Applicant:** 133 York, LLC, Applicant  
**Planner:** Jean Fraser

Dear Mr Flynn and Mr Greer:

On January 28<sup>th</sup>, 2014 the Portland Planning Board considered and approved a Level III Final Site Plan and Subdivision proposal for the construction of a 6 unit residential building at 133 York Street.

The Planning Board reviewed the proposal for conformance with the standards of the Subdivision Ordinance and Site Plan Ordinance and voted 6-0 (Dundon absent) to approve the application with the following waivers and conditions as presented below.

### WAIVERS

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations, contained in the Planning Board Report for project #2013-187 (Addendum to Report #50-13) for 133 York Street relevant to Portland's Technical and Design Standards and other regulations, and the testimony presented at the Planning Board hearing:

1. The Planning Board voted 6-0 (Dundon absent) to waive the Ordinance 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 voted 6-0 (Dundon absent) to waive the 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 P3 subject to the requirement that the bike rack be relocated.

### 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 for project #2013-187 (Addendum to Report #50-13) for 133 York Street relevant to the Site Plan and Subdivision reviews and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds the following:

**1. SUBDIVISION**

The Planning Board voted 6-0 (Dundon absent) that the plan is in conformance with the subdivision standards of the land use code, subject to the following 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, tree preservation, stormwater system maintenance, relevant conditions, and addressing the comments of the Associate Corporation Counsel dated 1.23.2014; 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 preserved trees, to be reviewed and approved by 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 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 voted 6-0 (Dundon absent) that the plan is in conformance with the site plan standards of the Land Use Code, subject to the following condition(s) of approval:

- i. That the applicant shall submit a revised front elevation to address the Design Review comments dated 1.23.2014 concerning the lighting under the entrance canopy, 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 Site Plan, Utility Plan and Landscape Plan that address the 1.23.2014 City Arborist comments in respect of planting materials, and include documentation of fencing details on the south and west boundaries and utility modifications on and near the north boundary, for review and approval by the Planning Authority, Department of Public Services and City Arborist prior to the issuance of a building permit; and
- iii. That the applicant shall finalize all easements/temporary construction agreements for work outside the site, and that recorded copies are submitted to the Planning Authority prior to the issuance of a building permit; and
- iv. That the applicant shall submit a revised Construction (traffic) Management Plan for activities in York Street that addresses Tom Errico's comments of 1.23.2014, for review and approval by the Planning Authority and Department of Public Services prior to the issuance of any City permits; 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 Inspections Division as part of any demolition permit review and copied to the Planning Authority prior to the issuance of a demolition permit for the existing building; and

- vi. That the applicant shall reconsider the location of the bicycle parking rack so that it does not impede access to parking spaces and is readily visible and accessible to potential users, with a plan showing the revised location to be reviewed and approval by the Planning Authority 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 shall submit a revised photometric plan, prior to the installation of the bollard lighting, that shows that the light levels from the new lighting under the entrance canopy 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.

The approval is based on the submitted plans and the findings related to site plan and subdivision review standards as contained in Planning Board Report for project #2013-187 (Addendum to Report #50-13) for 133 York Street, which is attached. The standard conditions of approval are listed below.

#### STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

1. **Subdivision Recording Plat** A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the posting of a performance guarantee. The performance guarantee must be posted prior to the release of the recording plat for recording at the Cumberland County Registry of Deeds.
2. **Subdivision Waivers** Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice and the plan or notice must be recorded in the Cumberland County Registry of Deeds within 90 days of the final subdivision approval.
3. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
5. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
6. **Subdivision Plan Expiration** The subdivision approval is valid for up to three years from the date of Planning Board approval.
7. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a subdivision plat for recording at the Cumberland County of Deeds, and prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.

8. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
10. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
11. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.
12. **Mylar Copies** Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to the Public Services Dept. prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If you have any questions, please contact Jean Fraser at 874 8728 or [jf@portlandmaine.gov](mailto:jf@portlandmaine.gov)

Sincerely,



Stuart O'Brien, Chair  
Portland Planning Board

**Attachments:**

1. Associate Corporation Counsel comments dated 1.23.2014
2. City Arborist comments dated 9.6.2013 and 11.1.2013 (underlined sections)
3. Design Review comments dated 1.23.2014
4. City Arborist comments 1.23.2014
5. Traffic Engineering (Tom Errico) comments 1.23.2014
6. Engineering comments dated 11.7.2013
7. Planning Board Report for project #2013-187 (Addendum to Report #50-13) for 133 York Street
8. City Code Chapter 32
9. Sample Stormwater Agreement
10. Performance Guarantee Packet