

PLANNING BOARD REPORT PORTLAND, MAINE



7-unit Condominium Development
30 Merrill Street
Level III Site Plan and Subdivision Review
2016-172
Banner Properties, LLC

Submitted to: Portland Planning Board Date: October 7, 2016 Public Hearing Date: October 12, 2016	Prepared by: Nell Donaldson, Planner CBL: 014 C 14 Project #: 2016-172
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I. INTRODUCTION

Banner Properties, LLC appears before the Planning Board for a final site plan and subdivision review for a seven-unit affordable housing development at 30 Merrill Street in Munjoy Hill. The plans include a four-story building, five parking spaces, landscaping, stormwater treatment, and utility and sidewalk improvements.

This development is being referred to the Planning Board for compliance with the site plan and subdivision standards. No Planning Board workshop was held. A total of 255 notices were sent to property owners within 500 feet of the site and a legal ad for the Planning Board hearing ran on October 3 and 4, 2016.

Applicant: Mike Boissonneau, Banner Properties, LLC

Consultants: Evan Carroll, Bild Architecture; Jon Whitten, Plymouth Engineering

II. REQUIRED REVIEWS

<i>Waiver Requests</i>	<i>Applicable Standards</i>
Aisle width – To allow a 19' aisle in the parking area <i>Supported by consulting traffic engineer.</i>	Technical Manual, <i>Section 1.14</i> , requiring that aisle width for right-angle parking be 24' per Figure I-27.
Parking dimensions – To allow all parking spaces at 8' x 15' <i>Supported by consulting traffic engineer.</i>	Technical Manual, <i>Section 1.14</i> , requiring that standard parking space be 9' x 18'.
Driveway separation – To allow approximately 11' of separation between the site driveway and the adjacent driveway to the east. <i>Supported by consulting traffic engineer.</i>	Technical Manual, <i>Section 1.7.1</i> , requiring that driveways be spaced a minimum of 20' from adjacent driveways.
Street trees – 7 units = 7 trees required. One street tree proposed to be preserved, one additional tree proposed. <i>Supported by city arborist, with contribution for five trees required.</i>	Site Plan Standard, <i>Section 14-526(b)2.b(iii)</i> and Technical Manual, <i>Section 4.6.1</i> . All multi-family development shall provide one street tree per unit. Waiver permitted where site constraints prevent it, with applicant contributing proportionate amount to Tree Fund.
Review	<i>Applicable Standards</i>
Site Plan	<i>Section 14-526</i>
Subdivision	<i>Section 14-497</i>

III. PROJECT DATA

Existing Zoning	R-6
Existing Use	Residential (duplex)
Proposed Use	Residential (7 efficiency condominium units)
Parcel Size	5,076 SF

	<i>Existing</i>	<i>Proposed</i>	<i>Net Change</i>
Building Footprint	1,396 SF	1,824 SF	428 SF
Building Floor Area	2,792 SF	6,580 SF	3788 SF
Impervious Surface Area	1,509 SF	1,824 SF	315 SF
Parking Spaces	2	5	3
Bicycle Parking Spaces	0	2	2
Estimated Cost of Project	\$820,000		



Figures 1, 2, and 3: 30 Merrill Street and from above (top), from Merrill Street (right), and existing zoning context (left).

IV. BACKGROUND

30 Merrill Street lies on the eastern end of Merrill Street at its intersection with Turner Street and near its intersection with Cumberland Avenue. The site is currently occupied by a two-story duplex, which would be demolished under the plans proposed here. The site lies in an R-6 zone and is surrounded by residential uses, including both single and multi-family homes.

V. PROPOSED DEVELOPMENT

The applicant has proposed a contemporary four-story building to house seven efficiency condominium units. Vehicular access would be provided via a modified curb cut on Merrill Street. Five parking spaces are proposed at the site's rear. The applicant has proposed building entrances at the front of the building on Merrill Street as well as at the rear, with the primary and accessible entrance to be located at the rear. Landscaping is proposed at the rear of the site, and planter boxes are proposed for the Merrill Street frontage. A fence would wrap three sides of the property. Stormwater management is proposed with a pervious paver system.

VI. PUBLIC COMMENT

The Planning Division received comments on the plans from several neighboring property owners (*Attachments PC-1-7*). The applicant has also provided neighborhood meeting minutes (*Attachment S*). The comments from these sources identify the following concerns:

- *Parking*: Neighbors expressed concern at the quantity and design of the parking proposed, suggesting that parking will spill over and cause congestion on Merrill Street.
- *Design*: Multiple neighbors also raised concerns with respect to the design of the building, particularly its relationship to the surrounding context. These comments are discussed in detail under site plan review below.

VII. RIGHT, TITLE, & INTEREST

The applicant has provided two deeds as evidence of right, title, and interest, with one deed referring to a small area of property transfer at the southwest corner of the site (*Attachment D*). No easements are required.

VIII. FINANCIAL & TECHNICAL CAPACITY

The applicant has submitted a letter from Gorham Savings Bank attesting to their financial capacity (*Attachment H*).

IX. ZONING ANALYSIS

Staff conducted a zoning analysis which found that the project meets the use and dimensional requirements of the R-6 zone, including the maximum density of one unit/725 SF, minimum front yard setback of 5', minimum side yard setbacks of 5', required setbacks of 10' above 35' in height, maximum height of 45', and minimum landscaped open space of 20%.

X. SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527) and SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS (Section 14-496)

The applicant has submitted a draft subdivision plat (*Plan 2*), which has been reviewed by William Clark, the city's surveyor. A final plat, addressing Mr. Clark's comments (*Attachment 1*) and meeting the requirements of *Section 14-496*, will be required prior to recording. This review has been included as a condition of approval. A review of condominium documents has also been included as a condition of approval.

XI. SUBDIVISION REVIEW (14-497(a). Review Criteria)

The proposed development has been reviewed by staff for conformance with the relevant review standards of the City of Portland's subdivision ordinance. Staff comments are below.

1. Water, Air Pollution

The stormwater management plan for the project is discussed in more detail under site plan review below. Based on the findings of the civil engineer's review (*Attachment 2*), no detrimental water or air quality impacts are anticipated.

2 & 3. Adequacy of Water Supply

The applicant has provided evidence of capacity from the Portland Water District (*Attachment Q*).

4. Soil Erosion

No unreasonable soil erosion or reduction in the capacity of the land to hold water is anticipated.

5. Impacts on Existing or Proposed Highways and Public Roads

Based on the findings of the traffic engineer’s review (*Attachment 3*), no detrimental impacts to the existing street network are anticipated.

6. Sanitary Sewer/Stormwater Disposal

Sanitary sewer and stormwater impacts are discussed in more detail under site plan review below.

7. Solid Waste

The applicant has proposed a location for solid waste receptacles in the basement. From there, solid waste and recycling will be collected curbside by the city. No detrimental impacts are anticipated.

8. Scenic Beauty

This proposal is not deemed to have an adverse impact on the scenic beauty of the area.

9. Comprehensive Plan

The plans meet multiple goals from the city’s housing plan, including ensuring “the construction of a diverse mix of housing types that offers a continuum of options across all income levels” and “encourag[ing] higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.”

10. Financial and Technical Capacity

As noted above, the applicant has submitted a letter from Gorham Savings Bank attesting to their financial capacity (*Attachment G*).

11. Wetland/Water Body Impacts

There are no anticipated impacts to wetlands or water bodies.

12. Groundwater Impacts

There are no anticipated impacts to groundwater supplies.

13. Flood-Prone Area

Per the city’s existing flood maps, the site is not located in a flood zone.

XII. SITE PLAN REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the City of Portland’s site plan ordinance. Staff comments are below.

1. Transportation Standards

a. Impact on Surrounding Street Systems

The development includes seven residential units, which, per the applicant’s trip generation analysis, are anticipated to generate three trips “within the peak hour” (*Attachment I*). Tom Errico, the city’s consulting traffic engineer, has reviewed the applicant’s submittals and has not identified any concerns regarding impacts to surrounding street systems (*Attachment 3*).

b. Access and Circulation

The final plans include utility, street tree, and driveway apron work within the existing 8’ brick sidewalk along the frontage of the site. Given the amount of work proposed in the sidewalk, the Department of Public Works has requested that the sidewalk be replaced in its entirety. Mr. Errico writes,

Based upon disruption of the existing sidewalk due to utility connections, driveway apron improvements, and general construction activity, DPW requires full replacement of the existing sidewalk along the project frontage.

This has been included as a condition of approval.

The building is proposed with two entrances, a front door with access from the Merrill Street sidewalk and a rear door with access from the parking area. The front door, which the applicant has referred to as the “contextual entrance,” is designed to provide direct access to the basement of the building, but not access directly to the building’s first floor. (The first floor is accessible from the basement via a stairwell at the back of the building.) The rear door, which the applicant has referred to as the “practical entrance,” is designed to provide at-grade, direct access to the first floor units, and thus to serve as the building’s accessible entrance. Over the course of the review, staff encouraged the applicant to pursue a redesign which might allow the front door to provide direct access to living spaces. In response, Evan Carroll, the applicant’s architect, highlighted conflicts between Fair Housing Act standards, design standards, and site plan standards, and argued that the proposed design represents the best solution for the site. He writes,

[T]he sloping site makes the possibility of multiple accessible entrances impractical for a project of this scale. The accessible rear entrance is favored as it best serves arrival by vehicle. (Attachment O)

While [the front] entrance is to a space that is more utilitarian space than formal, it will function well as “breezeway” entrance to all of the residents. The residents will all have personal spaces for stowing bikes, kayaks, boots, umbrellas, strollers and other outdoor gear. This entrance is treated on the exterior as the formal entrance to be in keeping with the neighborhood. (Attachment M)

Given the proposed design, and the likelihood that most visitors on foot will likely use the rear entrance, since it provides direct access to both the first floor and the stairwell to upper floors, the applicant has demarcated a pedestrian way from the driveway to the rear door in the plans.

The plans show the modification of an existing curb cut, which would slightly improve driveway separation from the adjacent driveway to the east, providing for approximately 11’ in distance between the two driveways. Mr. Errico has noted that he supports a waiver from driveway separation standards.

The new curb cut is proposed with a brick apron. Asphalt aprons are standard in this area of the city, although the City Council has recently adopted a policy to provide for consistent sidewalk material across driveway openings. A condition of approval has been drafted to address this situation. As Mr. Errico writes,

The plans have been revised to note that the driveway apron will be upgraded and centered with the proposed driveway. The plan notes a brick driveway apron and I would suggest a condition of approval that requires the project meet driveway design material standards currently being considered for revision by the City Council.

The plans show a driveway in pervious pavers which would provide access to five parking spaces, one of which would be accessible. The drive aisle in the parking area proposed at less than 19’, less than the city standard. As such, a waiver is required. At Mr. Errico’s request, the applicant has provided turning templates in an effort to document the efficacy of the parking circulation. Mr. Errico has reviewed the turning templates and supports a waiver for aisle width (*Attachment 3*).

It should be noted that Mr. Errico has raised some concerns regarding a fence that is proposed along the eastern property line, particularly where it may conflict with sight distances to the adjacent driveway. He writes,

The applicant has provided a fence detail that I find to be acceptable. Given that backing maneuvers are likely, I would suggest that the fence height be reduced to 3.5 feet for the first fence panel from the property line to ensure safe sight lines to pedestrians on the sidewalk.

This has been included as a condition of approval.

c. Public Transit Access

The proposed development is not located along a public transit route. As such, no provisions for transit access are required.

d. Parking

Division 20 of the land use ordinance provides an exception for the off-street parking requirement for the first three units in the R-6 zone and a 1:1 requirement thereafter. Per the ordinance then, only four off-street spaces are technically required. The applicant has elected to provide five off-street spaces. On the final plans, the applicant shows all five spaces at 8' x 15', dimensions which fail to meet the *Technical Manual* standard. Mr. Errico has expressed his support for this waiver (*Attachment 3*).

Two bicycle spaces per five dwelling units are required under the site plan ordinance. As such, three bicycle parking spaces are required. The final plans denote a bicycle rack on the sidewalk in front of the building to provide space for one visiting bicycle. Additional bicycle parking would be provided in the building basement, with access via the door on Merrill Street.

e. Transportation Demand Management

A transportation demand management plan is not required.

2. Environmental Quality Standards

a. Preservation of Significant Natural Features

There are no known significant natural features on the site.

b. Landscaping and Landscape Preservation

The landscaping plan shows assorted shrubs and perennials, including dwarf balsam firs, rhododendrons, spirea, hostas, and day lilies, in two concrete planters to frame the front door on Merrill Street. The plans also include some planting, including rosa rugosas, little bluestem, and day lilies, along the fenceline at the rear of the site. These plantings meet the city's landscaping standards, and Jeff Tarling, the city's arborist, has verbally indicated his satisfaction with the plans.

Per the city's site plan ordinance, seven street trees are required for the seven residential units proposed. The plans include the preservation of one existing street tree and the planting of one more. The species of the proposed tree has not been identified on the plans; as such, this has been included as a condition of approval. Site constraints prevent the planting of additional street trees. A waiver for the planting of the five remaining street trees, with a contribution of \$1,000 as required by ordinance, is proposed.

c. Water Quality/Storm Water Management/Erosion Control

In its current state, the site slopes from back to front and is largely pervious, save for the area occupied by the existing duplex. All runoff drains to Merrill Street via overland flow and from there into existing catch basins which collect in the combined sewer in Merrill Street. Under the proposed development, much of the site would remain pervious, as the entire parking area and driveway is designed with pervious pavers with a filter layer sub-base over native soils; the total impervious area on site is proposed to increase by only 315 SF. As the proposed stormwater system reaches capacity, runoff is proposed to flow to Merrill

Street, much as it does in the existing condition. Lauren Swett, the city's consulting civil engineer, has reviewed this system and indicated her approval (*Attachment 2*).

3. *Public Infrastructure and Community Safety Standards*

a. *Consistency with Related Master Plans*

As noted above, the project is generally deemed consistent with related master plans.

b. *Public Safety and Fire Prevention*

Keith Gautreau, of the Fire Prevention Bureau, has reviewed the plans and found them adequate in terms of emergency vehicle access and the city's public safety standards (*Attachment 4*). The site has generally been planned in accordance with Crime Prevention Through Environmental Design (CPTED) principles (*Attachment N*).

c. *Availability and Capacity of Public Utilities*

The plans depict underground electrical service from a pole on the western edge of the Merrill Street frontage. A sewer connection is proposed to an existing combined line in Merrill Street. Evidence of sewer capacity has been provided (*Attachment P*).

Domestic and fire water service are also proposed from Merrill Street. The applicant has provided evidence of water capacity (*Attachment Q*).

Ms. Swett has reviewed the utility plan and details and found them adequate with respect to the city's technical standards.

4. *Site Design Standards*

a. *Massing, Ventilation, and Wind Impact*

The bulk, location, and height of the proposed building are not anticipated to result in health or safety problems from a reduction in ventilation or changes to the wind climate. Likewise, these elements of the plan are not anticipated to result in substantial diminution in the value or utility of neighboring structures.

Roof-mounted HVAC systems are depicted away from the cornice line on the west side of the building. Vents are also shown on the building sides near the building's rear.

b. *Shadows*

No shadow impacts to publicly accessible open spaces are anticipated.

c. *Snow and Ice Loading*

Accumulated ice and snow are not anticipated to load onto adjacent properties or public ways.

d. *View Corridors*

Merrill Street is not a protected view corridor.

e. *Historic Resources*

The site is not within or adjacent to a designated historic resource.

f. *Exterior Lighting*

The applicant has provided a photometric plan and two cut sheets depicting full cutoff fixtures (*Plan 21 and Attachment R*). These plan meets *Technical Manual* standards.

g. *Noise and Vibration*

As noted above, final plans and elevations show mechanical equipment on the roof at the interior of the site. The applicant has attested that all state and federal emissions requirements will be met (*Attachment P*).



Figures 4, 5, and 6: Renderings of proposed building from north, west, and east.

h. Signage and Wayfinding
No signage or wayfinding is proposed.

i. Zoning-Related Design Standards

The applicant has provided a set of elevations, renderings, a context graphic, and a design narrative which reflect several rounds of review and speak to the architectural approach for the project (*Attachment M*). The narrative addresses the R-6 design standards, and argues that elements of the design relate closely to the surrounding context - the massing “much like the double-wide triple decker buildings that exist throughout the neighborhood,” the use of “areas of concentrated windows (like bay windows),” the recessed and covered front entry, the prominent cornice, and the use of clapboard siding. In response to both the drawings and the narrative, Caitlin Cameron, the city’s urban designer, has provided a memo highlighting the findings of the design review and establishing that the proposed design meets all criteria for an alternative design review. (*Attachment 5*). Under alternative design review, a project must be designed by a registered Maine architect, be compatible with the surrounding buildings in a two block radius, be consistent with the principles of the R-6 standards, and meet the majority of design standards within each principle.

It should be noted that, over the course of this review, some neighbors have raised significant concerns with respect to the building design. Neighbors have questioned the building’s scale and form, arguing that, while they may relate to the larger buildings of Cumberland or Congress Streets, they lack compatibility with finer-grained fabric of the buildings to the north and west. Others have argued that the elements of the building intended to provide articulation – the Juliet balconies and the recessed plane at the center of the front façade, for example – are insufficient to provide meaningful relief.

Neighbors have also raised concerns about the proposed materials and fenestration, arguing that the front windows are effectively horizontal and inappropriate in size for a residential context. Last, residents have raised concerns about the design of the front door, arguing that, since it fails to provide direct access to the living space, it will not function as a main entrance and therefore not provide many of the positive urban design benefits a main entry is intended to provide.

XIII. STAFF RECOMMENDATION

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the Planning Board approve the proposed seven unit condominium development at 30 Merrill Street.

XIV. PROPOSED MOTIONS

A. WAIVERS

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the Planning Board report for the public hearing on October 12, 2016 for application 2016-172 relevant to Portland’s technical and design standards and other regulations; and the testimony presented at the Planning Board hearing:

1. The Planning Board **finds/does not find**, based upon the consulting transportation engineer’s review, that extraordinary conditions exist or undue hardship may result from strict compliance with the *Technical Manual* standard (*Section 1.14*) which requires that aisle width for right-angle parking be 24 feet per *Figure I-27*, that substantial justice and the public interest are secured with the proposed variation in this standard, and that the variation is consistent with the intent of the ordinance. The Planning Board **waives/does not waive** the *Technical Manual* standard (*Section 1.14*) to allow the aisle as depicted in the proposed site plan;
2. The Planning Board **finds/does not find**, based upon the consulting transportation engineer’s review, that extraordinary conditions exist or undue hardship may result from strict compliance with the *Technical Manual* standard (*Section 1.14*) which requires that a standard parking space be 9’ x 18’, that substantial justice and the public interest are secured with the proposed variation in this standard, and that the variation is consistent with the intent of the ordinance. The Planning Board **waives/does not waive** the *Technical Manual* standard (*Section 1.14*) to allow five 8’ x 15’ spaces;
3. The Planning Board **finds/does not find**, based upon the consulting transportation engineer’s review, that extraordinary conditions exist or undue hardship may result from strict compliance with the *Technical Manual* standard (*Section 1.14*) which requires a minimum separation between driveways of 20 feet *Figure I-27*, that substantial justice and the public interest are secured with the proposed variation in this standard, and that the variation is consistent with the intent of the ordinance. The Planning Board **waives/does not waive** the *Technical Manual* standard (*Section 1.14*) to allow 11 feet of separation between the site driveway and the adjacent driveway to the east;
4. The Planning Board **finds/does not find** that the applicant has demonstrated that site constraints prevent the planting of all required street trees in the right-of-way. The Planning Board **waives/does not waive** the site plan standard (*Section 14-526 (b) (iii)*) to allow for a contribution of \$1,000 to Portland’s tree fund to be substituted for the provision of additional trees on site.

B. SUBDIVISION

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the Planning Board report for the public hearing on October 12, 2016 for application 2016-172 relevant to the subdivision regulations; and the testimony presented at the Planning Board hearing, 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, which must be met prior to the signing of the plat:

1. The applicant shall finalize the subdivision plat for review and approval by Corporation Counsel, the Department of Public Services, and the Planning Authority; and
2. Prior to Certificate of Occupancy, the applicant shall finalize condominium documents for review and approval by Corporation Counsel.

C. DEVELOPMENT REVIEW

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the Planning Board Report for the public hearing on October 12, 2016 for application 2016-172 relevant to the site plan regulations; and the testimony presented at the Planning Board hearing, 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 conditions of approval that must be met prior to the issuance of a building permit, unless otherwise stated:

1. The applicant shall submit revised plans which:
 - a. Show the extent of sidewalk replacement on Merrill Street and include all relevant *Technical Manual* details; and
 - b. Show a modified fence height at the front of the property to ensure safe sight distance for review and approval by the Department of Public Works;
2. The applicant shall submit a final driveway apron detail meeting *Technical Manual* standards for review and approval by the Department of Public Works; and
3. The applicant shall submit revised plans which indicate the species and size for the proposed street tree on Merrill Street for review and approval by the City Arborist.

XV. ATTACHMENTS

PLANNING BOARD REPORT ATTACHMENTS

1. City Surveyor review (markup from Bill Clark, 7/15/16)
2. Civil engineer review (memo from Lauren Swett, 10/7/16)
3. Traffic engineer review (memo from Thomas Errico, 10/6/16)
4. Fire Prevention Bureau review (memo from Keith Gautreau, 8/12/16)
5. Design review (memo from Caitlin Cameron, 9/28/16)

APPLICANT’S SUBMITTALS

- A. Cover Letter (from Evan Carroll, 7/15/15)
- B. Level III Site Plan Application
- C. Description of Project
- D. Evidence of Right, Title, & Interest
- E. Compliance With Zoning
- F. Waiver Requests
- G. Evidence of Financial Capacity
- H. Stormwater Management Plan
- I. Trip Generation and Circulation
- J. Consistency with City Master Plans
- K. Solid Waste Management
- L. NFPA Code Summary
- M. Design Standards Assessment
- N. Crime Prevention Through Environmental Design Narrative
- O. Accessibility Narrative
- P. Mechanical Systems Statement

- Q. Utility Capacity Letters
- R. Lighting Cut Sheets
- S. Neighborhood Meeting Summary
- T. Responses to Comments

PLANS

- Plan 1. Boundary Survey
- Plan 2. Plat
- Plan 3. Site Plan
- Plan 4. Grading and Utility Plan
- Plan 5. Erosion & Sedimentation Control Details
- Plan 6. Details
- Plan 7. Architectural Cover Sheet
- Plan 8. Basement/First Floor Plan
- Plan 9. Second/Third Floor Plan
- Plan 10. Fourth Floor/Roof Plan
- Plan 11. Front and Rear Elevations
- Plan 12. Side Elevations
- Plan 13. Rendering from the East
- Plan 14. Rendering from Turner Street
- Plan 15. Rendering from the West
- Plan 16. Context
- Plan 17. Details
- Plan 18. Code Summary
- Plan 19. Life Safety Plan
- Plan 20. Construction Management Plan
- Plan 21. Photometric Plan

PUBLIC COMMENT

- PC-1. Jordan email (8/16/16)
- PC-2. Davis email (9/10/16)
- PC-3. Harkleroad email (9/21/16)
- PC-4. Davis email (9/22/16)
- PC-5. Adams letter (10/6/16)
- PC-6. Swartz letter (10/7/16)
- PC-7. Valzania letter (10/7/16)