

**Name of Body:**  
**Minutes for Meeting of:**  
**Meeting Begins:**  
**Meeting Location:**

**Planning Board**  
**August 8, 2017**  
**7:00 p.m.**  
**Council Chambers, City Hall**

## MINUTES

### Members Present

Kevin Carr, Chairperson  
Linda Boudreau  
William Laidley  
Adrian Dowling  
Leslie Dillon  
Katherine Gatti  
Mary DeRose

### Staff Present

Tex Haeuser, Planning & Develop. Director  
Steve Puleo, Community Planner

### Pledge of Allegiance

**T. Haeuser** shared that a member of the Planning Department, Troy Sollenberger, passed away suddenly this morning. It was a sad day for the department and they will miss him. There was a moment of silence.

Chairperson Carr opened the meeting at 7:00 p.m. and welcomed all in attendance. He reviewed the meeting's agenda and reminded the audience and Board of policies regarding a Planning Board Meeting and Public Hearings. He read into the record Planning Board Regulation #5, standard condition of approval: This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. No project, plan or development previously approved by the Planning Board may be altered or modified without securing prior approval of the Planning Board in the form of an amended approval; provided however, that, if at any time it becomes necessary or desirable to make modifications to the project, plan or development, the Planning Director may approve modifications determined by the Planning Director to be de minimis in that they (i) do not amount to a waiver or substantial alteration of any condition or requirement set by the Planning Board; (ii) do not affect any approval standard; (iii) meet all applicable ordinances and laws; (iv) are reviewed and approved by all appropriate City staff and consultants; and (v) do not involve any changes to lot lines. De minimis changes include only the modifications listed in Section 24-27 of the Subdivision Ordinance and Section 27-140 of the Zoning Ordinance.

### Item #1. Approval of the July 11, 2017, Planning Board minutes and workshop minutes

**A. Dowling** noted that Mr. Frank's first name was misspelled and the applicant's name should be added to his comment on page 9 of the minutes.

**A. Dowling** motioned to accept the July 11, 2017, Planning Board minutes and workshop minutes with the corrections as stated. **L. Boudreau** seconded; (7-0).

Item #2A. Consent Calendar. Performance Guarantee Releases – Highland Ave. Cemetery Telecommunications Tower – 881 Highland Ave.; Armory Redevelopment – 682 Broadway; and, Nonconforming Lots of Record – 18 and 22 Osborne Ave.; Smith Street Duplex – 45 Smith St.

**K. Carr** noted that "Armory Redevelopment – 682 Broadway" should be "Smith St. Duplex – 45 Smith St."

**T. Haeuser** believes that is what Mr. Kasik's email mentioned. These are all erosion control guarantees amounting to \$5100 total. Mr. Kasik indicated that he has inspected these and is able to recommend the release of the guarantees.

**W. Laidley** motioned to approve the total release of the \$5100 Erosion Control performance guarantees for the Highland Ave. Cemetery Telecommunications Tower – 881 Highland Ave.; Nonconforming Lots of Record – 18 and 22 Osborne Ave.; and Smith Street Duplex – 45 Smith St. **L. Boudreau** seconded; (7-0).

Item #3. PUBLIC HEARING – Special Exception Accessory Dwelling Unit Review – Moretti – ADU – 22 Henry Street – Gary Moretti – FINDINGS

Mr. Gary Moretti has requested a special exception approval to create an accessory dwelling unit (ADU) within his home located at 22 Henry Street. The single-family home is 2,136 SF in area and the proposed ADU is 528 SF in area, representing 25% of the principal living area. The proposed ADU location is in an existing "cabin/cottage" with one bedroom, one bathroom, a living room and kitchenette. The applicant shows four parking spaces on the property. The property is further identified as Assessor's Map 1, Lot 204, located within the Residential District A.

Public hearing notices were mailed on June 29, 2017, to 130 property owners within 500 feet of the proposed project and the applicant and were sent via email to the Conservation Commission, Planning Board members, and City Council.

**T. Haeuser** explained that this was carried over from the July 11<sup>th</sup> meeting. He showed the location on the map and showed the cabin's street view. Staff had questions relating to the status of the property and Board members had fire safety concerns. An opinion from Corporation Counsel and review by the fire department were completed. The City Attorney said that the old variance applied to the structure, not the use, and was not an issue. She felt the application met requirements for an ADU with a potential condition based on the fire department inspection. Given the proximity of the cabin to other structures, the fire department recommended the ADU be sprinkled. Staff recommendation is for approval with the two conditions related to ADUs plus a third related to the ADU being sprinkled.

**Gary Moretti, 22 Henry St.**, introduced himself. He read the fire report and is sorry that he hadn't considered sprinklers before because it is a great idea. He has someone coming Monday to design it and give an estimate.

PUBLIC HEARING OPEN

**K. Carr** stated that there were written comments that were misfiled and he would like them read into the minutes.

**T. Haeuser** read the letters for the record. Ted McHugh, 6 Loveitt St., supports the project. Jonathan Poznansky, 25 Henry St., supports the project. Laurel LaBauve, 11 Henry St., expressed support for the ADU. Mike and Angel Mitton, 19 Henry St., support the project. Catherine Callahan & Brett LeBleu, 8 Loveitt St., expressed support for the project.

**Russ Lunt, Brigham St.**, said it's admirable what he's doing for his parents.

**K. Gatti** said there was previously a question from Mr. Puleo about a certificate of occupancy regarding previous work and asked if it was provided.

**S. Puleo** said it couldn't be issued because the requirement for an ADU is a Planning Board approval. His comment should have been regarding a final inspection for the work that was previously done.

**K. Gatti** said the way she reads the ordinance under special exception, they presume it's permitted unless that use would have a greater adverse impact. There are numerous letters of support, he's not changing the existing property, and she appreciates the time he's put into it. She would move to approve with the conditions recommended, especially the residential sprinklers.

**K. Gatti** motioned to approve the special exception application of Gary Moretti dated June 1, 2017, through August 3, 2017, for an Accessory Dwelling Unit located at 22 Henry Street with the following conditions:

1. **Planning Board Regulation #5, standard condition of approval, as read by the Chair at the opening of the meeting.**
2. **Prior to issuance of the certificate of occupancy, the applicant shall provide evidence to the Planning and Development Director that the Certificate of Approval for the ADU has been recorded in the Cumberland County Registry of Deeds.**
3. **Prior to the issuance of a certificate of occupancy for the ADU, the applicant shall seek and obtain necessary permits to install residential sprinklers in the ADU and shall install the same in compliance with NFPA 13 R, *Standards for Installation of Sprinklers Systems and Low – Rise Residential Occupancies (2016 ed.)*. Prior to the issuance of a certificate of occupancy for the ADU for compliance with all of the requirements set forth in the Fire Department application review comments dated August 3, 2017. Once the Fire Chief or his designee is satisfied with the results of the inspection, certificate of occupancy for the ADU shall be conditioned on the property of installing and then all the fire and life safety equipment in order for the lifetime of the ADU.**

**A. Dowling** seconded.

**L. Boudreau** stated that this is an application that came in a backwards manner and she doesn't want that minimized. Most of this work took place in August of last year and it's hard for her that the ADU issue didn't come up before. They are getting something that's completed with family living in it without an approved ADU. There was talk of an "existing cabin" but the old cabin was torn down and replaced by this garage, from what is in the notes. When they left the last meeting there were concerns about the variance but Corporation Counsel doesn't see it as an issue. There were fire safety concerns and sprinklers are an effort to address that. She wants it clear that it's difficult in some neighborhoods where everyone likes the applicant and there are other times when things are different. They can't make approvals based on if neighbors like you or not and they need to be careful of that. She will vote in favor but she's not happy with how it came about. If it meets regulations, she will go with it. She mentioned the possibility of it becoming an Airbnb at some point and how this is changing the character of neighborhoods. She's not approving because they have letters and she's not guaranteeing it will always have family living there or be a long-term rental.

**K. Carr** requested a friendly amendment that they include the notes from the fire department about interconnection of the smoke and CO detectors to the primary residence.

**S. Puleo** said it is attached and has already been done. The building inspector will double check this at the time of certificate of occupancy.

PUBLIC HEARING CLOSED

**Vote (7-0).**

**S. Puleo** said there are corrections to the findings. Item #6 should read, “The applicant is not anticipating any potential nuisances that will be generated from the project. The project is not anticipating any noise to be generated above those permitted in Chapter 30, Control of Noise for New Development.” Additionally, the first line of #8 should be omitted for redundancy.

**M. DeRose** asked the applicant if his parents are currently living there. **G. Moretti** said yes—although it’s listed as a garage, there were no requirements to tell anyone what the structure is used for.

**M. DeRose** asked if he feels they’re safe. **G. Moretti** said yes. It has been inspected and he restated that it was deeded as a cabin with a bathroom.

**K. Carr** asked that the discussion stop as the item has already been voted on and Board members should be reviewing the findings.

## FINDINGS

**L. Boudreau** said Item #5 should be corrected to say, “The applicant will install a six-foot privacy fence.” The notes says it’s already installed but it’s her understanding it is not.

**A. Dowling** motioned to accept the findings with the correction as stated. **W. Laidley** seconded; (7-0).

### Item #4. PUBLIC HEARING – Non-Conforming Lot of Record Development Request – Single-Family Residence – 291 Pine Street – Carl Eppich – FINDINGS

Carl Eppich and Emily Wright are requesting a review and approval to develop a single-family residence on a nonconforming lot of record located at 291 Pine Street. The applicants are proposing to construct a single-family residence on a 5,120 SF nonconforming lot of record located in the Meetinghouse Hill neighborhood. The Meetinghouse Hill neighborhood has a minimum lot size of 6,000 SF. A portion of Lot #4 was recorded in 1895 as part of the Plan of Mariner Estate subdivision and the deed of Lot #4 was recorded in the Cumberland County Registry of Deeds (CCRD) in 1922. The applicants are proposing to construct a 1,052 SF footprint of a single-family house with a one-car garage. The property is further identified as Assessor’s Map 10, Lot 120B, located within the Residential A District and Meetinghouse Hill neighborhood.

Public hearing notices were mailed on July 18, 2017, to 135 property owners within 500 feet of the property and the applicant and sent by email to the Conservation Commission, Planning Board, and City Council.

**T. Haeuser** introduced the item and explained that the eligibility of the lot for single-family home development under the City’s rules was discussed at the workshop and the Board appeared to support the concept. Even though the description for Lot #4 was merged, it is still intact and traceable to the original deed and is therefore eligible. He reviewed stormwater, explaining this is a “hilly” area and water travels from lot to lot. The applicants propose various stormwater management facilities. They have obtained a drainage easement from the downhill neighbor so overflow created by their house and driveway can continue to follow existing drainage patterns. Otherwise, additional issues come to the architectural compatibility. In their notes, the applicants explain how they needed a design to fit with the hill site. They gave examples on Margaret and Simonton Streets. They addressed comments regarding a run of stairs and how other homes in the area have as many or more steps. The architect was concerned about the three-story impression of the home from being built into a hill. To minimize this, they modified the design. The

architect suggested shutters but they believe similar homes do not have them and it would create a busier appearance. He spoke about the design of the driveway and vegetation.

There were letters received and they are in the correct spot in the Board member's packets. He read letters into the record: Amy Steenstra is concerned about squeezing another home into a small space, more cars on the street, and dangers for pedestrians. Amber Lofthouse 324 Pine St., similarly discussed the densely packed neighborhood and on-street parking. Elizabeth Mooney, 298 Pine St., wrote a letter in support. Chris Robinson, 306 Pine St., also supports the application. Victoria Alexander and William Fritzmeier support the application as well.

He believes the applicants have done a lot to address the architectural concerns. The Board will need to determine whether or not they meet compatibility standards. They are meeting the height limit. Staff recommendation is for approval with conditions as written.

**Carl Eppich, 295 Pine St.,** introduced himself and John Mahoney from Ransom Consulting. He showed a PowerPoint presentation of his project, stating it's been three years in the making and they have lived on the street for 14 years. He believes it's important they get this right. He first showed examples of homes on Simonton and Margaret Streets that they believe fit in well. He showed the lot, noting it is one of the widest along this section of Pine St.—most are 50 feet and they have 57 feet. He showed the site plan, photo rendering, and views from the street. He showed the houses on Simonton and Margaret Streets again, stating that the Simonton St. home has more inviting stairs from the front. It was noted as unusual to have so many stairs but they showed many examples of homes with just as many or more steps. Having steps up to a staircase is common. As for height, one comment was that it's mostly one and two-story dwellings. He thinks that's inaccurate—there are many two- and a few three-story homes. They are building a two-story home, and to build it into the hill there is an appearance of a three-story. He showed how the house is nestled in and doesn't protrude too high. He showed the elevations.

**John Mahoney, Ransom Consulting,** spoke about the stormwater system. He showed the site plan. On the uphill side, water from the roof goes into the crushed stone drip edge and through a sand filter that's underdrained. They have twice the capacity; they are required to detain and inch and this detains two. The drip edge on the top of the drawing is lower and couldn't be underdrained so it is not as deep, but is still one-third more than required for capacity. The pervious paver driveway takes care of itself; the pavers have gaps for stormwater to run through and filter into crushed stone. Pollutants are removed before it is discharged, much like the crushed stone drip edge. All impervious area is accounted for and additionally, there is a rain garden as a backup plan. Overall, they have three times the capacity needed. There is also an agreement with the neighbor. They don't anticipate any stormwater issues and they believe they've improved the situation.

#### PUBLIC HEARING OPEN

**Dave Sheehan, 204 Harriet St.,** thanked the applicants for giving their plans out to the neighborhood. He thinks it's a beautiful house and is happy to have it in the neighborhood. He was also wondering about Airbnb. As someone who lives in the neighborhood, he's seen that happening and he's glad his neighbors are building this house to live in.

**Russ Lunt, Brigham St.,** thinks it's a wonderful design for the area and likes the style.

**A. Dowling** said there was a nice architectural peer review report. This design does not jump out as being incompatible. He asked for more information about the color of the siding, described as a "medium slate gray." He asked if there's a picture that shows the color.

**C. Eppich** said they are still working on the final color but it will be a lighter side of the slate gray. The garage level will be darker.

**A. Dowling** said “slate” makes him think of dark and that may stand out too much.

**K Gatti** asked what they are doing with 295 Pine. **C. Eppich** said it’s currently for sale.

**W. Laidley** said this project is fine and he has no problems. He hopes the Steenstra and Lofthouse letters have been read carefully regarding density and its effects on the City.

**L. Boudreau** commended the applicants on the architecture. She is impressed and surprised by some of the review architect’s comments because there are many large houses and many houses with steps. She thinks they’ve done a great job finding a house that will blend. She’s concerned about water and neighbor’s properties. There was mention of tying into the separated storm line. She has concerns with anything that goes wrong with the stormwater plan. Others had some concerns as well. She would like to be convinced that this is the right drainage system or to find a way that if it fails, the expense is the applicant’s.

**C. Eppich** said they are receiving water from up the hill, which comes down over this site that is sloped consistently towards the neighbor. They knew this was a big issue and that is why he hired these engineers to get it right. He would like to tie into the separated sewer but it stops at the top of the hill and is 200-300 feet to the south. It’s a concern of his as well; they are trying to improve the situation for those downhill and have tripled the capacity of water that could be held on site. Additionally, in the back there is a home with a large French drain. The neighbor hand dug a dry well and wanted to ensure the water was not going to his or the neighbor’s house. They’ve sent more water behind the garage to this permeable area with the dry well. It’s also within the 20-foot setback and nothing can be built in the back of these houses. This is probably where there was some sort of natural drainage course. Tying into the City system is another \$20,000 or more and would stop this project. They have done what they can and are confident that this will work on their site and improve downhill neighbors’ situations. There will also be a lot of vegetation to suck up water. The soils are tested and they are maintaining the required depth above the annual high ground water level. The bottom of the foundation will be above the historic high water table. On the left side, they will be able to hold more water coming down the hill and off the roof.

**J. Mahoney** said they did calculations and their finished floor basement elevation is, minimum, over above a foot above the historic high water table. On the downhill side they are three feet above the water table. In terms of not getting water, causing a nuisance, and maintaining infrastructure, the best thing you can do is to pipe the water away quickly. This is the worst thing for the downstream water resource. The best thing is to keep it on the surface for water quality. This probably was a drainage channel and his philosophy is to keep that when possible. To connect to the system, when it rains there is a greater strain and accelerating the amount of water downstream. This is a specific design for this site.

**S. Puleo** said staff comments are supportive of Mr. Mahoney’s methodology in taking care of stormwater systems. The Pine St. drain is large and takes a lot of stormwater downstream. It has issues with stream high tide because it backs up into the storm drain. As Mr. Mahoney said, there is concern about capacity. He doesn’t think there are comments from the staff analysis to be concerned about relative to the proposed system.

**L. Boudreau** asked about the rain garden and if it’s to flow behind the garage on the right hand side.

**C. Eppich** said yes, they put it here because it’s behind everyone’s buildings. Nothing can be constructed and it is as far as possible away from people’s basements. It will also be a nice feature in their backyard.

**J. Mahoney** said now almost the entire site drains onto the downhill neighbor's property. The way the grading works out, about one-third will drain to the street, so there is less area draining onto the downstream neighbor's property. This would drain into the street in an extreme storm event, eventually running into the gutter and storm drain.

**L. Boudreau** asked if the storm drains are on the right or left going down. **J. Mahoney** said it flows into the gutter and joins water going to the storm drain at the corner of Cobb and Pine.

**K. Gatti** read Section 27-304 (f)(9). The way she reads it, essentially any nonconforming lot cannot have a driveway.

**T. Haeuser** said that's not the intent. The critical word is easement. What happened in the past is that the contributing lot would retain an easement to the lot to be developed, resulting in unwanted development situations.

**K. Gatti** said that it could be changed in the future because it is confusing. She thinks the application meets all requirements and she would approve.

PUBLIC HEARING CLOSED

**K. Gatti** motioned to approve the site plan application of Carl Eppich and Emily Wright to build a single-family home on a nonconforming lot of record, located at 291 Pine Street, dated May 2, 2017, through July 18, 2017, and drawings dated May 2, 2017, through July 18, 2017, with the following conditions of approval:

1. **Planning Board Regulation #5, standard condition of approval, as read by the Chair at the opening of the meeting.**
2. **Prior to issuing building permits, the applicant shall provide evidence to the Planning and Development Director that they have recorded the Certificate of Approval and Findings of Fact for the development in the Cumberland County Registry of Deeds (CCRD) and that they have signed the Level One Contractor's Erosion and Sedimentation Control Certification.**
3. **Prior to issuing the certificate of occupancy, the applicant shall complete all improvements in accordance with the approved site plan, and said improvements shall have been inspected and found satisfactory by the City's Engineer or other duly designated person.**
4. **Prior to the issuance of the certificate of occupancy, the applicant shall provide the Planning & Development Director with evidence satisfactory to Corporation Counsel that a maintenance plan and drainage maintenance agreement has been accepted by the City of South Portland and will be executed and recorded at the Cumberland County Registry of Deeds.**
5. **Prior to issuing the certificate of occupancy, the applicant shall provide to the Planning and Development Director a certified "as-built" grading plan meeting the City's G.I.S. requirements; grades will not be modified without first obtaining Planning Board approval.**
6. **Prior to providing an occupancy permit, the applicant shall include a Stormwater Management Maintenance Plan acceptable to the Planning and Development Director that has been recorded at the Cumberland County Registry of Deeds. The owner of the property and all future owners shall be required to maintain all elements of the Drainage Plan as contained in the Stormwater Management Maintenance Plan.**
7. **In accordance with Section 27-304 (f) (2), the height of the building shall not exceed 28 feet. This condition shall also be attached to the building permit.**

**8. The area between the two street utility excavations shall be milled so that pavement restoration is unified.**

**L. Boudreau seconded; (7-0).**

#### FINDINGS

**L. Dillon** amended Item #6 to eliminate the first sentence and modify the second to say, “The applicant has developed a landscaping plan...”

**A. Dowling** motioned to accept the findings with the corrections as stated. **L. Boudreau seconded; (7-0).**

#### Item #5. PUBLIC HEARING – Non-Conforming Lot of Record Request – Single-Family Residence – 10 Coolidge Avenue – Cost Mangement, Inc. – FINDINGS

##### **\*\*\*APPLICANT REQUESTED POSTPONEMENT TO NEXT REGULARLY SCHEDULED**

##### **PLANNING BOARD MEETING OF SEPTMBER 12, 2017**

Cost Management, Inc. is requesting a site plan approval to develop a nonconforming residential lot of record. The applicant is proposing to construct a three-bedroom 936 SF two-story detached single-family home located at 10 Coolidge Avenue. The parcel is 3,770 SF in size with 41.8 feet of street frontage. Public utilities are available in the Loveitt Street ROW. The site plan shows parking for two vehicles along the northwest side of the proposed residence. The property is further identified as Assessor’s Map 11, Lot 224B, located within the Residential A District and Meetinghouse Hill neighborhood.

**T. Haeuser** said the applicant is doing a redesign of the home and is changing the roof configuration in response to the peer review architect and staff’s comments.

**L. Boudreau** motioned to postpone the Non-Conforming Lot of Record Request – Single-Family Residence – 10 Coolidge Avenue – Cost Mangement, Inc. to the September 12<sup>th</sup>, 2017, Planning Board meeting. **W. Laidley seconded; (7-0).**

#### Item #6. PUBLIC HEARING – Non-Conforming Lot of Record – Single-Family Residence – 71 Pine Street – Loring Builders, LLC – FINDINGS

Loring Builders, LLC is requesting a site plan approval to develop a nonconforming residential lot of record. The applicant is proposing to construct a three bedroom 1,014 SF one-story detached single-family home. The parcel is 5,000 SF in size with 50 feet of street frontage. Public utilities are available in the Pine Street ROW. The applicant is proposing a 24’ 6’ tall home with a small front porch. The property is further identified as Assessor’s Map 8, Lot 23, located within the Residential G District and Ferry Village neighborhood.

Public hearing notices were mailed on July 26, 2017, to 127 property owners within 500 feet and the applicant and sent by email to the Conservation Commission, Planning Board, and City Council.

**T. Haeuser** introduced the item and showed the location on a map. Stormwater was reviewed; they are in a City separated sewer line situation and can construct with a full basement and foundation drain. They will have vegetated swales along both sides of the home. Runoff will be conveyed to a proposed field inlet catch basin located at the southwest corner of lot. The foundation and intercepted stormwater runoff will be conveyed to an eight-inch subsurface storm drainpipe to the City’s separated stormwater system located in the Pine Street ROW. The applicant feels he has met architectural requirements. The submitted building elevations and floor plans show a one-story three-bedroom bungalow dwelling with a covered rear patio, accessed by the rear doorway from the kitchen. He showed the photo simulation and the site

plan. Comments show that the main roof slope has been revised to be steeper and create a greater variance between the main and porch rooves. This was noted as the main comment from the peer review architect. Staff recommendation is for approval.

**Shawn Frank, Sebago Technics**, introduced himself and the applicant, Mark Loring. He noted that this is not a three-bedroom home. It is a two-bedroom home, single story, with a full basement. It is relatively flat site. He reviewed stormwater. There is a full basement; half in and half out, in order to not to go too deep into the ground and to provide the front porch. He noted that the photos look closer but the home is actually set back. There are utilities within Pine Street. There is an ash tree that will be retained but is not shown. There is an at-grade patio on the back. The applicant asked for a waiver for overhead utilities because electrical is on the other side and the poles are not close.

#### PUBLIC HEARING OPEN

**Peter Hill, 34 N. Marriner St.**, said he has been in contact with City staff, but there were three lots developed south of him three years ago with drainage and grading issues that are still unresolved. As a result, where the catch basin is, this section of their property is below water. He has no problem with building the house but there are unresolved drainage issues in the area. He asked if a boundary survey was done and if the current fence is on the property line. He is unsure of the catch basin location and asked if there will there be one in the back and the front. He also asked whose responsibility it is if the grading of the property is incorrect.

**Russ Lunt, Brigham St.**, said there is a lot of water in the area. He thinks it's a great project and commends Mr. Loring.

**Jill Hannaford, 140 High St.**, said that strip is high density and there are no sidewalks on that side. Cars park on the street and pedestrians walk in the street, which is narrow and traffic is fast going to the marina. She also said there are water issues in the area and thinks this will impact water drainage. Traffic is also an issue; another driveway can affect safety in the area.

**T. Haeuser** said in regard to an existing enforcement issue relative to grading on a different property, Mr. Hill contacted him and he spoke with Code Enforcement. They have an existing situation and part of the problem is that the applicant has not provided the as-built survey with finished grades. They have agreed that if as-built isn't submitted soon, they will use performance guarantee money to do so. If it is different than approved they can proceed with enforcement options.

**S. Puleo** corrected the location of the catch basin. It should be southeast, not southwest.

**S. Frank** showed where the catch basin location is on his board. The intent is to pick up runoff towards the back. They will carry the swale around the site and back to the catch basin so everything on this property will be brought to the catch basin and nothing will go onto Mr. Hill's property except from a piece of land on the other side. The intent is that everything on the site will go to the catch basin; it will not improve or exacerbate the situation. The fence is shown on the boundary plan; they found that the fence is on Mr. Hill's property and at an angle in association to the property line. Pine Street has traffic and is narrow with cars parked on the side. He's not sure one home will make a significant difference. The intent of the drainage design is to get everything from this lot into the City system. In regard to the driveway location, there are driveways closer to Mosher St. and they don't anticipate any safety issues.

**S. Puleo** followed up on Mr. Hill's grading concern. They have a condition that is part of the approval that requires the applicant provide the department with an as-built surveyed grading of the site prior to

occupancy. They verify and ensure the spot grades and contours correlate with what is built. If not, they have a performance guarantee. This is to ensure these lots are actually built as approved.

**L. Boudreau** likes to hear that people try to save trees but her experience is that frequently existing trees don't survive construction. She wants everyone to understand that if something happens to the tree, they plant another. She thinks this is a great plan. The neighborhood is treacherous for walking. If it were her, she would have built a bigger house.

**K. Gatti** asked if there's a sump pump. **S. Frank** said yes, it ties to the basin on their property.

**K. Gatti** asked how high the basement slab is against seasonal high groundwater. **S. Frank** said in spring, water is probably within a foot of the surface.

**W. Laidley** spoke about drainage swales. These are meant to control runoff for a while and let it percolate in the ground. Over time, vegetation, leaves, grass, and sediment gets into them and makes them less effective. The City does not check as they don't have the manpower, time, or energy. He wants the Board to realize as much as this is designed, these don't always work after a while.

**Mark Loring, 5 Woodmoor Rd.**, wanted the tree and doesn't want it damaged. He thinks it makes the house look like it wasn't just built. As for size, he thinks the trend is going towards smaller houses. He explained the reasoning for the foundation being out of the ground and how it gives the house a different look. It accomplishes goals to keep the basement floor high, gives more light into the basement, and gives the house height.

**T. Haeuser** apologized for not asking this during review. He spoke about the potential for the City's separated stormwater system to be nonfunctional during storm or high tide events. He wonders if it's true and if so, is it possible to do this house with some kind of "super waterproofing" of the foundation so that you could not have a sump pump. That is worrisome if they are pumping groundwater and it goes into catch basin and not into the filled-up system.

**S. Frank** said it fluctuates but he doesn't recommend they preclude the sump pump. He doesn't see a sump pump being on 24/7 but it's more of an assurance on their end in case there is an event. If you have some issues with tidal influence on the storm drain, by the time water backs up and comes out of the beehive, everything is underwater. He thinks it would be a rare and catastrophic event. There's capacity within the storm drain, within the street system, and where it outlays now. He thinks there could be issues where it connects to the harbor. In theory, there will be an impact but in reality it's immeasurable. He doesn't see an issue with the storm drain outfalling the tidal impact this far up Pine Street.

**T. Haeuser** said he will acknowledge in the comments from Water Resource Protection that these concerns are not raised. Mr. Puleo wondered if the catch basin catchment size should be increased but he's not sure that matters much.

**M. Loring** explained that the way houses are built today is different that a long time ago. This is a low part of the City. Today's construction tries to eliminate any water in the basement.

**K. Gatti** asked if there's a soil profile. **S. Frank** said no.

PUBLIC HEARING CLOSED

**L. Boudreau** motioned to approve the site plan application dated June 13, 2017, through August 1, 2017, and drawings dated June 13, 2017, through August 8, 2017, of Loring Builders, LLC to build a single- family home on a nonconforming lot of record located at 71 Pine Street, with the following conditions of approval:

1. Planning Board Regulation #5, standard condition of approval, as read by the Chair at the opening of the meeting.
2. Prior to issuing building permits, the applicant shall provide evidence to the Planning and Development Director that they have recorded the Certificate of Approval and Findings of Fact for the development in the Cumberland County Registry of Deeds (CCRD) and that they have signed the Level One Contractor’s Erosion and Sediment Control Certification.
3. Prior to issuing the certificate of occupancy, the applicant shall complete all improvements in accordance with the approved site plan, and said improvements shall have been inspected and found satisfactory by the City’s Engineer or other duly designated person.
4. Prior to the issuance of the certificate of occupancy, the applicant shall provide the Planning & Development Director with evidence satisfactory to the Corporation Counsel that a maintenance plan and drainage maintenance agreement has been accepted by the City of South Portland and will be executed and recorded at the Cumberland County Registry of Deeds (CCRD).
5. Prior to issuing the certificate of occupancy, the applicant shall provide to the Planning and Development Director a certified “as-built” grading plan meeting the City’s G.I.S. requirements; grades will not be modified without first obtaining a Planning Board approval.
6. Prior to providing an occupancy permit, the applicant shall include a Stormwater Management Maintenance Plan acceptable to the Planning & Development Director that has been recorded at the Cumberland County Registry of Deeds. The owner of the property and all future owners shall be required to maintain all elements of the Drainage Plan as contained in the Stormwater Management Maintenance Plan.
7. In accordance with Section 27-304 (f)(2), the height of the building shall not exceed 28 feet. This condition shall also be attached to the building permit.
8. The area between the two street utility excavations shall be milled, so that pavement restoration is unified.

**A. Dowling** seconded; (7-0).

**S. Puleo** noted that corrections have been made to the findings for the catch basin location to “southeast,” “201” to “2017,” and “three bedroom” to “two bedroom.”

**L. Boudreau** motioned to amend the previous approval to include the approval of a waiver of Section 24-38 (F)(1) requiring underground utility connections for the overhead connection from a utility pole. **A. Dowling** seconded; (7-0).

**FINDINGS**

**W. Laidley** noted that the GPD should be 180 instead of 270 on the first page.

**L. Boudreau** motioned to accept the findings with corrections as stated and the inclusion of a waiver for utilities. **A. Dowling** seconded; (7-0).

Item #7. PUBLIC HEARING – Amended Site Plan Review Request – Restaurant and ATM Improvements – 50 Market Street – Millcreek Shopping Center Limited Partnership – FINDINGS  
 Millcreek Shopping Center Limited Partnership is requesting an amended site plan approval to construct a modification to the existing ATM and restaurant drive-thru located at 50 Market Street. The proposal consists of removing the overhead ATM canopy associated with Bank of America and the reconfiguration of vehicular circulation lanes. The applicant will provide an additional 11 parking spaces, including two

handicapped parking spaces. The stormwater will be affected by the reconfiguration of the travel lanes and will change the current permitted discharge amounts and rates. The property is further identified as Assessor's Map 19, Lot 300, located within the Limited Business (LB) District.

Public hearing notices were mailed on July 26, 2017, to the 60 property owners within 500 feet of the proposed project, the applicant, Conservation Commission, Planning Board, and City Council.

**T. Hauser** introduced the item. He reviewed traffic, stating that Gorrill-Palmer Consulting Traffic Engineers states that the proposed development may result in a reduction of trips to due to the reconfiguration of the ATM drive-thru lanes. The replacement use of the former Tim Hortons restaurant will be similar use will not result in an increased number of trip ends to the site. There is not a lot of change in the quantity of impervious area. There will be a new catch basin and they are requesting a waiver of the Basic Stormwater Management, per Section 27-1536 (d), Requirements, due to the insignificant impact to existing stormwater management facilities of the Retail Plaza. Staff recommendation is for approval with the stormwater waiver and a financial capacity condition.

**John Mitchell, Mitchell & Associates**, introduced himself and Dan Catlin from 50 Market Street. The existing building is restaurant building with two drive-up windows and two drive-up lanes. He showed the existing plan and explained the ATM canopy and drive-up lanes. There are two points of access: Waterman Drive and Market Street. There is stormwater drainage designed and approved and functions well. There is existing lighting, landscaping, and signage. He showed the proposed site plan layout. They are not doing anything to the building but are modifying the ATM drive-up and reconfiguring the drive-up lanes. They are removing the overhead canopy, reducing the amount of lanes from five to two for the ATM, and redesigning the drive-thru associated with the drive-up window at the top of the building. They are adding 11 parking spaces including two handicapped. Mr. Catlin is marketing the space where Tim Horton's used to be for a similar use and they do not anticipate a traffic increase. They are eliminating the travel lane in front of the building as it conflicts with pedestrian traffic. This plan has the drive-thru lane eliminating that conflict that will be curved and safer. To ensure stormwater will not be trapped they added a catch basin and piped it into the existing storm drain system. There will be less impervious than what exists and they've added landscaping. They ask for the stormwater management plan waiver because of the less impervious and the system functions well. They believe the proposed changes will improve vehicular circulation and pedestrian safety.

#### PUBLIC HEARING OPEN

**Russ Lunt, Brigham St.**, agrees about pedestrian safety. He asked if the drive-up teller windows will be eliminated.

**J. Mitchell** said they will keep the vacuum tube.

**A. Dowling** said there is a fire department comment that is unaddressed. It states "concerns on the further limitations this design will put on easy access for fire equipment" and that they did not have time for a full review and asked for it to be held until returning to the office. He didn't see any other comments from the fire department and wondered if this has been addressed.

**S. Puleo** said they were not able to follow up on this.

**J. Mitchell** said the two ATM lanes will provide ample room for fire emergency truck to circulate. The drive-thru lane squeezes narrow. It is a wide radius but should allow enough room for an emergency vehicle.

**T. Haeuser** said the main question is circulation around the sides of the building. **J. Mitchell** said in terms of that, nothing has changed.

**L. Boudreau** asked if it's mountable curbing. **J. Mitchell** said it could be a sloped granite.

**A. Dowling** doesn't feel he can make a good decision until he hears about the fire department's specific concerns. He wonders if the applicant is willing to wait until the next meeting and would like to know what other members think.

**L. Dillon** asked about the Waterman entrance. It's not well marked and she wonders if they would consider marking it, especially with the Greenbelt being there.

**T. Haeuser** said the City has approved a grant for an application for bike and pedestrian improvements. Improvements to Waterman Drive are included in the application and consist of reconfiguring the street such as what was done further north on Waterman. They are able to come in with esplanades, sidewalks, and bike lanes. They have funding approved. City Council needs to make a corresponding Capital Improvement Plan allocation for the local match.

**K. Gatti** asked where the fire hydrant is. **J. Mitchell** showed this on the plan.

**K. Gatti** shares Mr. Dowling's opinion. Her reading of the ordinance indicates the site plan review request shall be approved unless the applicant is unable to meet standards; one of these standards regards fire and adequate access. She would like a stamp of approval from the fire department.

**L. Boudreau** has concerns because of the wording. She asked if there are concerns with the fire department and existing conditions.

**Dan Catlin, Commercial Properties**, has never had a complaint from the Fire Chief on circulation. Three sides are not altered and with the canopies you wouldn't expect a truck to go in there today. They are on a schedule with Bank of America to put up a temporary ATM and there has been a lot of coordination. He wonders if there's a way to get a condition to have a conversation with staff and the Fire Chief to avoid waiting a full month.

**J. Mitchell** said he can meet and work with the Fire Chief on any recommendations. They are trying to market the property and the problem with potential tenants has been the overhead canopy. They consider it an obstruction of the building.

**L. Boudreau** asked if a condition can be placed to work with the fire department.

**T. Haeuser** said he thinks that is a reasonable thing to do because the wording is "concerns regarding easy access." The standard is "adequate access." There isn't a strong statement that there's a problem and nothing should happen until he returns. Based on that, he thinks a condition is acceptable.

**S. Puleo** said it could be building permit issuance. He thinks they will need a fit-up permit for the new tenant and they can hold that until there is fire department input. He thinks the big issue may be that the front access drive is now eliminated and a mountable patio may solve that problem. They could condition it on the fit-up permit.

**K. Carr** asked if things like conversion of curbing are de minimis changes or if it would require them to come back. **T. Haeuser** said they would come back if necessary, but it could be de minimis.

**K. Carr** asked Mr. Dowling and Ms. Gatti if that condition is satisfactory.

**A. Dowling** said it's satisfactory as long as there will be a meeting. He doesn't want to make a habit of voting on things without seeing comments.

**K. Carr** said there has been an issue where the Board sees items with incomplete comments from City staff.

**K. Gatti** said is fine approving with that condition. She thinks it should track the language of the ordinance.

PUBLIC HEARING CLOSED

**K. Gatti** motioned to approve the waiver request of Section 27-1536 (H)(1) to waive the City's Basic Stormwater Management Plan, Section 27-1536 (d), due to reduction of impervious surfaces and minimal changes to the existing stormwater system; to approve the site plan application of Millcreek Shopping Center Limited Partnership dated June 21, 2017, through August 3, 2017, and drawings dated June 20, 2017, for Restaurant and ATM Improvements located at 50 Market Street as follows:

**CONDITIONS**

1. Planning Board Regulation #5, standard condition of approval, as read by the Chair at the opening of the meeting.
2. Prior to the scheduling of a preconstruction meeting, the applicant shall pay all outstanding review escrow account fees, post the necessary performance guarantee(s) in such amount(s) as established by the City, pay all compensation and/or impact fees as determined by the Planning Board.
3. Prior to the issuance of a building permit, the applicant shall provide the Planning and Development Director with satisfactory evidence that one of the first six methods set forth in Section 3(B) of the City's Site Plan application form relating to the applicant's financial capacity is in place.
4. Prior to the issuance of any sign permit, the applicant shall provide the Director of Planning and Development with details of the location, size, and materials pursuant to Section 27-1561 of the South Portland Code of Ordinances, as may be amended.
5. Prior to the issuance of building permits, the applicant shall provide an approval from either the Fire Chief or the Acting Deputy Fire Chief that the site plan meets Section 27-1426 (h), that the proposed development has made adequate provisions for the construction and maintenance of convenient and safe access for fire and other emergency vehicles to all building, structures, and uses.

**A. Dowling** seconded; (7-0)

**FINDINGS**

**A. Dowling** motioned to accept the findings with the addition of Condition #5. **L. Boudreau** seconded; (7-0).

Item #8. PUBLIC HEARING – Zoning Text Amendments – Inclusionary Zoning and a Housing Trust Fund – City of South Portland

The City of South Portland Planning Staff is requesting that the Planning Board consider proposed amendments to the Zoning Ordinance regarding text amendments for an Inclusionary Zoning ordinance and a Housing Trust Fund.

Per Ordinance Section 27-115 (g), the Planning Board will, after the close of the public hearing, make a recommendation to the City Council regarding the proposed amendments.

**T. Haeuser** introduced the item. Since the Planning Board hearing in May, there was a Council First Reading that was postponed to workshop. On July 17<sup>th</sup>, there was a Council First Reading of the draft ordinance that got a 6-0 approval. This is coming back to the Planning Board because of substantive changes and they are looking for a recommendation. After that, it will go back to City Council.

Inclusionary zoning is a concept they are borrowing closely from Portland. For residential housing projects with 20 or more units, there would be a requirement that 10% of the units meet the income standards for middle-income housing, which is housing affordable to people at a fairly high income range. This is applicable to rental and for-sale housing.

Discussions with Council have mostly been around different incentives. They first removed a building height bonus available under certain conditions. They also removed the off-street parking incentive. He outlined the remaining incentives: fee reductions, streamlined review, affordability term, and density bonus. The Council went back and forth on incentives; some said they were being too generous and some said they were not generous enough. For those who thought there were not enough incentives, the types of projects eligible for incentives were increased but three zoning districts were removed from eligibility for the density bonus.

The proposal includes a Housing Trust Fund, like Portland, to provide a way for developers to pay an in-lieu fee instead of providing middle-income units. The Board talked about reducing it to \$75,000 but they are still at \$100,000. Another item discussed was allowing 800 SF not just 400 SF for the first bedroom of a project when looking at required number of bedrooms. This was changed. There were concerns during workshops about administration. South Portland Housing Authority will help if this goes ahead. They do work on income qualification and recertification of units and have agreed to a modest fee to process middle-income units should any developer come forward.

Staff contention is that the proposal meets with the housing policies of the Comprehensive Plan. Staff recommends a positive recommendation.

#### PUBLIC HEARING OPEN

**A. Dowling** asked if estimates from any other organizations other than the South Portland Housing Authority were obtained. **T. Haeuser** said no.

**A. Dowling** said he voted against this last time and will do so again. He likes this version less than the previous version. On page 2 of the memo, under Affordability Term, the idea is to get people to go above and beyond the 10%. If they do 25%, they don't have to maintain it as long and if they do 100% they only need to maintain it for ten years. On the last page with the quote from the Comprehensive Plan, his eye goes to the word "continues." He doesn't like the idea of enticing people to do more but saying they only need to do it for a short period of time. He thinks this incentive is counterproductive to that goal. On page 3, under Incentives Revised in Ordinance, previously to be eligible a project a developer had to include at least one low-income unit for rent or one middle-income unit for sale. Now a middle-income unit for rent or sale is sufficient. He believes the situations for low-income and middle-income people are very different. He feels this is counterproductive to the identified need they have in the community for affordable housing for lower- and moderate-income households.

**L. Boudreau** also previously voted against a positive recommendation and will do the same tonight. Philosophically, she doesn't believe this a solution to housing here. She thinks the current situation is a

result of what happened to the economy. You see more apartments being built and they've changed regulations—they've taken away density, opened infill lots. They are making the changes she thinks will fix the problem without doing this. There are other opportunities in the City, for instance O'Neil Street, to help the very people who are identified here. She thinks this proposal is unnecessary.

**L. Dillon** was not here for the prior workshops. She has background in urban sociology and affordable housing issues and reviewed case studies and briefs to inform herself. She shared what she found, stating that inclusionary housing programs can produce affordable housing and do not lead to significant declines in overall housing production or to increases in market rate prices. She talked about what the effectiveness of an inclusionary program is reliant on, including economic and housing market conditions and design implementation. She stated that mandatory programs and strong housing markets that have predictable rules, well-designed cost offsets, and flexible compliance alternatives tend to be the most effective types of inclusionary housing programs.

**M. DeRose** thinks this will affect her area of town more than others. She's not sure how this will help her neighbors. She intends to vote against it.

**W. Laidley** voted against this in the prior hearing. This reminds him of the Comprehensive Plan—some ideas are great but translating it into a real life situation is difficult. He has problems not with the idea but with the administration and Housing "Slush" Fund, which he thinks is ripe for abuse and fraud. He can't support this.

**K. Gatti** thinks it's going in the right direction but is on the wrong track. She thinks it's trying to address a problem but doesn't do enough. It may be too much of a cursory attempt to address the problem. She spoke to what Mr. Dowling said about contractors using the incentive to provide more housing to get out of it earlier. This could create a number of buildings in the first five years and that will be a deeper problem. She has concerns about the fund as well. She worries that contractors and developers will pay the fine. Why not make people developing help address the problem altogether? She asked where the \$100,000 figure came from.

**T. Haeuser** said it comes from Portland. There was an analysis and they made a determination that it was high enough that developers think twice before paying in-lieu fee.

**K. Gatti** asked if it's \$100,000 for each building. **T. Haeuser** said yes.

**K. Gatti** asked if there is feedback from cities or towns that use the Housing Trust Fund in regard to the percentage of those paying the fine. **T. Haeuser** said in Portland, experience is that rental developers are not paying the fine but some condo developers are.

**K. Gatti** thinks she will vote against it too, not because she doesn't think it's a good idea but she doesn't think it's enough.

**K. Carr** agrees with everyone else. He has no doubt that inclusionary zoning will pass regardless of the Board's recommendation. He hopes the Council hears, through the comments from the Board members, the concern the Board has. He will also vote against this knowing that it will pass the Council and hopefully they can find creative ways to help.

**T. Haeuser** said it's unusual for such unanimity against a proposal.

**L. Dillon** said it is not unanimous. She will be voting for a positive recommendation.

**T. Haeuser** feels that the balance of the Board comments has shifted. Before it was more of a focus on increasing supply and letting the market function and now it seems that the proposal isn't going far enough to meet the needs of lower income people. He strongly feels that affordable housing is a real problem, a typical problem, and you need to do everything possible in all different ways. Inclusionary zoning is one way, finding the right tax credit, trying to work with the Housing Authority, and finding places it will work where the community will accept higher density projects. He is unsure of low-income housing at O'Neil Street but is encouraged about other sites that the Housing Authority is looking at. He's also encouraged by work in the West End Master Plan. It's a big problem to go about a number of different ways.

**K. Carr** said his final comment is that he would like to see the amount of effort go into this that has gone into sustainability.

**K. Gatti** asked how long inclusionary zoning has been in Portland. **L. Dillon** said since 2015.

**K. Gatti** asked if it's been amended at all. **T. Haeuser** said there was a recent effort to strengthen it for lower income but it didn't go ahead.

**K. Gatti** is in the mindset that when they look at applicants, they are the final decision. She's worried that approving it is setting it in stone. She may have been swayed to alter her opinion—maybe it is better to start with something knowing that the City Council has the power to amend it.

**K. Carr** said that their recommendation is purely advisory. This Board cannot make policy so it is within the purview of the City Council. Whatever Council approves will be the standard they have to use.

**L. Dillon** added that she agrees that this doesn't do enough to address all housing shortages, particularly where there is the most need. She thinks that will be the hardest thing to do, but in addressing any component of shortage by adding some supply could potentially help address the overall issue. She has done research and said that mixed income neighborhoods are the safest and most functional neighborhoods you can have. If these buildings are even just temporary mixed income housing, it sets the precedence of experience for people to live in and want mixed income neighborhoods. She thinks this is doing something to both of those points.

**L. Dillon** motioned to make a positive recommendation to the City Council in regard to the proposed **Inclusionary Zoning/Housing Trust Fund Ordinance** based on its conformance with the **Comprehensive Plan** and the **2016 Affordable Housing Committee Report**. **K. Gatti** seconded; (2-5) (**Laidley, DeRose, Carr, Boudreau, Dowling** opposed). Motion does not pass.

#### Item #9. Public Comment on Items Not on the Agenda

**Russ Lunt, Brigham St.**, said he can see both sides to the last item. He welcomed new members to the Board. He noted the many projects approved and how everything is coming together.

#### Item #10. Comments from the Planning Board and Director of Planning & Development

**T. Haeuser** said on August 28<sup>th</sup>, Council will have a workshop on the FEMA Coastal Floodplain mapping updates. Airbnb was mentioned tonight and a City Councilor will try to get short term rentals on a workshop agenda. The West End Master Plan is completed and zoning is developed. The West End Master Plan, marijuana, and paper streets will be on Monday's workshop.

**K. Gatti** thanked the City for paying for new members to go to orientation. It was helpful and informative.

**W. Laidley** noted that the new solar array is looking impressive.

**K. Carr** noted there was postponement at the last meeting because of the lack of review comments from City staff and there was another tonight. He spoke with Mr. Haeuser about working with the City Manager about getting responsive review from City staff. They cannot streamline processes if City staff is not responsive and they could use the help of the City Manager.

Item #11. Adjournment

**10:30 pm L. Boudreau motioned to adjourn. W. Laidley seconded; (7-0).**

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**Please Note:** No new agenda items will be begun after 11:00 p.m. If during the course of a Planning Board meeting it becomes apparent that the Board will not reach certain agenda items, the Board may, prior to its 11:00 p.m. cut-off, offer to the proponents of such items the opportunity to have their items tabled immediately to the beginning of the next regularly scheduled meeting. Agenda items remaining after the 11:00 p.m. cut-off time will automatically be tabled to the next regularly scheduled meeting.