

CITY OF SOUTH PORTLAND

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

Planning Board
August 22, 2017
7:00 p.m.
Council Chambers, City Hall

MINUTES

Members Present

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

Staff Present

Tex Haeuser, Planning & Develop. Director

Absent

Steve Puleo, Community Planner
William Laidley

Pledge of Allegiance

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 August 8, 2017, Planning Board minutes

A. Dowling motioned to approve the August 8, 2017, Planning Board minutes. L. Boudreau seconded; (6-0) (W. Laidley absent).

Item #2. Consent Calendar

No items

Item #3. PUBLIC HEARING – Zoning Text Amendment and Zone Map Change — Meetinghouse Hill Community Commercial District (MHCC) — 352, 362, 366, 372, 374, 376, and 378 Cottage Road — City of South Portland

The City of South Portland is requesting a Land Use Recommendation to the City Council to rezone the properties located 352, 362, 366, 372, 374, 376, and 378 Cottage Road. The proposal is to create a new zoning district to be known as the “Meetinghouse Hill Community Commercial (MHCC) District.” The zoning district change is found in the City’s Comprehensive Plan, pages 6-11 and 6-16. The property owner of 372 Cottage Road has recently purchased the property in part to relocate her retail coffee shop from Portland and initiated the request with four abutting properties. The City Council held a workshop on July 24, 2017, and extended the area to the corner of Cottage Road and Pillsbury Street. The City Council has requested that the Planning Board hold a public hearing on the rezoning. The parcels are

further identified as South Portland Assessor's Map 10 Lots 206, 207, 208, 209, 209A, 210, and 211, located within the Transitional Residential (RT) District and Limited Business (LB) District. Per Ordinance Section 27-115 (g), the Planning Board shall make a recommendation to the City Council regarding this request.

Legal advertisements regarding this request appeared in the Portland Press Herald on August 1 and 7, 2017. Public notices regarding the proposed zoning text amendment and map change were mailed on August 2, 2017, to 67 property owners located within 500 feet of the parcels under consideration and the seven property owners under consideration and were sent by email to the Conservation Commission, Planning Board, and City Council.

T. Haeuser introduced the item, stating that the original applicant is Gail Bruzgo and the co-applicants are abutters. This item went to City Council for a workshop on July 24th and the Councilors thought the zone should be extended to include the whole block. The public notice went to people for the entire block.

He showed the original map for the application and explained that this request is for the creation of a new zone (Meetinghouse Hill Community Commercial District or MHCC), recommended by the Comprehensive Plan, and a zoning map change to apply the new zone to a portion of Cottage Road. Within the area now is Limited Business (LB) and Transitional Residential (RT). Abutting is the Residential A district. The original application was to change four properties within the block to the new zone. He showed the expansion of the area on a new map. The new proposal is to go from Vincent St., including the properties along Cottage Rd., to the building that contains David's at Pillsbury St.

He showed the location on Google Earth and explained what each property currently is, showing a mixture of multi-families, single-families, offices, and shops/restaurants. Ms. Bruzgo's building is currently a residential unit and office space. She looked at the building and saw the zoning didn't allow what she wanted to do, so she came to the City with the desire for a zone change. Since she is in the middle of a group of properties, the City asked her to come back with more properties involved. She was advised not to ask for the LB zone because 1) LB allows drive-through restaurants and putting a few properties together could end up as something like Dunkin Donuts or McDonald's and 2) there is a somewhat specific recommendation in the Comprehensive Plan for what should happen here.

He showed Figure 6.2, Land Use Designations, Cottage Road Corridor, South Portland, Maine, from the Comprehensive Plan. Out of the three sections shown on the map, they are focused on the second (#2, shown in green). He read from the Comprehensive Plan that the first section, Outer End of Cottage Road, is "allowed to transition to a low intensity, mixed-use area that includes small-scale retail, service, and office uses as well as a range of residential uses. He described this as low intensity, small scale. The third area, Meeting House Hill, has uses "limited to residential and community uses with provisions for very limited nonresidential use such as home occupations." He described this as limited or no-growth areas. The section they are focusing on is the Meeting House Hill Commercial Hub, "a destination business district that effectively balances pedestrian accessibility and safety with the need to maintain vehicular mobility...Allowed uses include retail and service businesses as well as increased residential and entertainment options." This is designated as more of a growth area to allow more uses serving the neighborhood and people using Cottage Rd. Design standards are required and placement of buildings and parking is specified. This area includes more than just the block they are talking about tonight; City Council appeared satisfied that for now, while it should eventually include the entire block, it did not need to include the entire area because that section can wait to be rezoned.

The proposed new zoning is modeled after a similar area—the Main Street Community Commercial Zone. He explained the three levels of growth areas, stating that this is a commercial hub, which is in the middle between neighborhood activity centers (e.g., a small area around Broadway and Sawyer Street)

and downtowns (Mill Creek and the Mall area). Other areas that are commercial hubs within the City include Main Street and in Pleasantdale along Broadway. Cottage Rd. is not the same as Main St. in terms of traffic volume, so this proposal is scaled back. He explained what the zones being replaced (LB and RT) are and reviewed space and bulk standards.

In regard to residential density, the A zone is at four units/acre, LB and RT follow the A zone, and MHCC would be 24 units/acre. He noted that all of the apartment buildings currently in the area are nonconforming in regard to density and the nine-unit apartment building is at 23 units/acre. Minimum lot size varies from 5,000-6,000 SF in A, LB, and RT, and MHCC would be 3,500 SF. Maximum building height for all three current zones is 35' and MHCC would be 45' or three stories. The proposed zoning, map, and memo are available on the Planning Board website.

Front yards cannot be used for parking and there are requirements for off-street parking spaces for bikes as well as cars. There is a fairly significant buffering requirement for those adjacent to other zones. There is a standard site plan review requirement. Any use that requires 1,000 SF or more of new construction will have to come to the Board for site plan approval and any use, potentially like the coffee shop, that has interior renovation for a new use with greater traffic or other impacts than the previous use could potentially come to Planning Board for site plan review. The zone requires conformance with design standards for commercial and neighborhood activity centers.

He explained that they talk about the Comprehensive Plan because these plans have more significance and weight legally than just being guidelines or a recommendation. There is case law on what happens when a community does not follow their plans. All plans have generic objectives but here they are talking about very well defined objectives for a particular geographic location.

There were communications with City staff in the Planning Board's packers along with a letter and email. He briefly read the letters: Tim Pinette and Trissa Otto wrote that they felt the zone would be a benefit to the City but they have concerns about on-street parking spaces on Cottage Rd. between Pillsbury and 372 Cottage. There would be more cars coming in and out of the properties onto Cottage and there are visibility problems. Speed on Cottage and pedestrian safety on Cottage and Pillsbury were also concerns. Mr. Haeuser stated that the City was awarded a grant from PACTS that includes some improvements relative to Cottage and Pillsbury—at a minimum there will be bump outs. The City is aware there is a safety problem. The email was from Joel Eckhaus who is not in favor of the zone change for a variety of reasons such as traffic.

Staff recommendation is in favor. If there are amendments that seem appropriate, it could mean another hearing, which is a possibility.

PUBLIC HEARING OPEN

Gail Bruzgo, Broadcove Rd., Cape Elizabeth, said they are excited at the potential chance of getting into this neighborhood and are grateful for customers who came tonight in support. She has letters of support to leave with the Board if they wish. She noted that there is a photo of her building in the Comprehensive Plan where the new zone is described; this gave her hope that this isn't out of the realm of possibilities. She would like to move her coffee shop, Omi's, from Portland to South Portland. She submitted the application and felt it got good feedback from the Council. It then became a City of South Portland application, not just hers with co- applicants (Ed Rowe, 352 Cottage, and Nancy Thompson, next door). She read a letter from Ed Rowe, the co-applicant at 352 Cottage, who talked about the surrounding area being made up of a doctor's office, restaurant, an office building, and within sight of the gas station. He feels the strip is a business zone from the gas station to Cape Elizabeth and changing would allow more controlled development that would complement current and future use. She also spoke briefly of

customer letters that talked about attracting new, smaller diverse businesses and specialty shops. She explained that she works in the back office and her daughter-in-law Naomi, who will also speak, handles day-to-day operations. They are currently in a West End residential area and have blended beautifully.

Naomi Hall, 34 Carter St., is a co-owner of Omi's. She shared letters from neighbors. The first was from Andy and Gary, 31 Brackett St., Portland, who spoke of how the owners have developed the business into a place people can come together, how well they take care of the business inside and out, and the absence of any traffic problems. The second letter was from Laurie Lewin, a neighbor and customer, who stated the shop is well-run and known for great products and service. The owners are kind and professional. She has not experienced congestion, noise, or traffic problems. Ms. Hall then stated that she is a South Portland resident and believes small businesses promote community involvement and provide a space for all demographics. They help ensure communities stay connected, keep neighborhoods safe, provide employment, and keep money in the local economy.

Karen Westerburg, 6 Fairlawn Ave., is concerned about pedestrians crossing Cottage Rd. As a driver, taking a left to get onto Cottage is a problem. She asked for consideration of a traffic light. She thinks the coffee shop is a great idea.

Julia Dilger, Stratton Pl., Portland, owns Foulmouth Brewing in South Portland and lives near Omi's. She will be sad to see it leave. The current neighborhood is very dense and never has any issues. She is in support of the zone change.

Elizabeth Rogers, 15 Vincent St., lives behind 378 Cottage and is a supporter of small business. She expressed concern about what will move into the other business locations and wanted more information on buffering since there are many children who play in backyards in the area. She is concerned about noise with cars parking behind the buildings. She has seen an increase in traffic on Vincent and believes traffic issues will be important.

Eben Perkins, 113 Walnut St., is a customer of Omi's and believes Portland is losing one of their best coffee shops and community spaces. He lived on the same block and unlike Portland, there seems to be on-street parking here. It seems like traffic can be worked through and the request seems in line with the Comprehensive Plan. He fully supports the zone change.

Roy Haugen, 20 Fairlawn Ave., appreciates small business but thinks this will change the area completely. He doesn't think this is a good fit for the area.

A. Dowling asked the Chair to clarify what the hearing is for—this is for the zone change and not the Omi's project.

K. Carr said that is correct. Should the zone change go through, the nature of this business would require site plan that would address specific aspects of the business. It's important to point out there will be a public hearing with City Council as well.

Kyle Peterman, 969 High St., Bath, lived above the coffee shop spoke about it being a community space. He did not have issue finding parking on the street and experienced no noise. The owners did a great job maintaining the steps and sidewalk in winter.

Patrick Arnold, 393 Sawyer St., owns a small company in South Portland. He believes Omi's has been everything people have attested tonight. On behalf of the zoning change, he couldn't think of a better example of a business to build it around. There are traffic issues, but there are resources and funds to help support new crosswalks, etc. He has lived in South Portland all of his life and has watched the community

develop. He thinks this is within the Comprehensive Plan and doesn't recommend more hearings on the zone change itself. He is in full support.

Tim Pinette, 374 Cottage, lives adjacent to the proposed new coffee shop. He would like to emphasize the concern with traffic: pedestrian, bike, and vehicular. They have trouble pulling into their driveway, especially with cars parked on either side. Pedestrian traffic is an issue; most of the traffic ignores the crosswalk and sign, and anything done here would be an improvement. These issues already exist and the addition of businesses could make it worse; he is not suggesting the coffee shop would create problems. He noted that the bike lanes end at Sawyer and the dangers of the Pillsbury and Cottage intersection. He thinks the elimination of parking spots between Pillsbury and 372 Cottage would improve sight lines and give space to add bike lanes. Bikes cannot get through intersection and use the sidewalk, which is not safe. He asked if buffering is inter- or intra-zone. He isn't sure if a traffic study would be appropriate or not. He also noted that the photo mentioned by Ms. Bruzgo is of his property, not 372 Cottage.

Elizabeth Wheeler, 13 Fairlawn Ave., is concerned about traffic and more development causing more traffic. People currently use the street as a cut-through and drive fast; animals have been hit. She would like traffic calming strategies on Fairlawn. She noted that she's always wanted a coffee shop around and has nothing against the shop itself.

Erik Weisenburger, 15 Vincent St., said his property abuts almost half of the area and reiterated that they need a better traffic plan and resolution before coming to rezoning. He loves the idea of a coffee shop but there is a bigger problem that will not go away but get worse. Sidewalks are not in good condition and are narrow. He stated that this is a major corridor of people leaving Cape Elizabeth. He asked for clarification on building height and setbacks changing.

Brendan Whitney, 71 S. Richland St., lives behind Red's and is used to traffic congestion. He gets up early to deliver food to Omi's; it is his favorite coffee shop and is a place he can bring his children to. He hears the concerns and traffic is something that should not be hinged on this. He has seen traffic increase but this is an area with businesses and residents where many people will be walking. There's a sign on the bridge that says "South Portland, Making All Things Possible" and he hopes that can happen here.

Rick Colson, 440 Sawyer St., said they get a lot of traffic from Vincent and Chase where people try to avoid the bottleneck. Before tonight, he was against this but the more he listened the more he thought it was a good idea where maybe they can control the issues. He doesn't see a lot of foot traffic in the proposed area. He bikes but avoids the area certain times of day. He noted that Main St. has wider streets. He is for small business but the businesses there do not generate a lot of traffic. He noted that driveways are blocked when there's a show at the Portland Players because there is no parking available. Deliveries also cause one-lane traffic. He's for a change in the traffic situation and if this zone change will address that, he's for it.

Chris Cary, 65 Ocean View Ave., thinks everyone has good points. He spoke of the idea of an anchor tenant in a community. He doesn't want traffic to govern whether or not they allow an anchor tenant and believes that is the wrong way to approach it. Traffic is something to be solved. He doesn't think a lot of traffic they get is going to a business there; they are going home. He argued for commitment to enhance safety regarding traffic without the denial of embracing an anchor tenant.

Michelle Flynn, Pleasant Hill Rd, Cape Elizabeth, used to drive into Portland through this area and has seen the traffic increase over the years. She knows the family and would love to see Omi's in South Portland. They have parking on-site that could help but agrees with residents about traffic in the area. Between Elsmere and the veterinarian office's addition, she can only see more traffic. If the City can address traffic and not the business being a negative effect on it, it would be helpful.

Katie Bruzgo, 34 Carter St., owner of Omi's, previously lived in Portland and noticed traffic in Southern Maine has gotten worse. She hopes this would make the neighborhood more walkable; businesses can make cities more walkable and she hopes to see many businesses here. She has seen success in Portland by Hannaford where there are walkways that talk and blink.

Nan Patten, Bowers St., is a customer of Omi's and is happy they are moving to South Portland. Where they are now there are no traffic problems created by the business. She thinks it's unfair to consider that one business will create further traffic problems. She believes it will be great for the community. Traffic seems to be a separate issue they shouldn't be judged by.

T. Haeuser read three letters into the record that were not included in the Board members' packets:

Erik Whitton, 16 Fairlawn Ave., wrote that he is not anti-business and would appreciate a coffee shop nearby. He believes this area is already too congested with traffic, is dangerous, and the City should reduce traffic and make it safer. He suggested more police enforcement and that crosswalks and bike lanes should be better marked and maintained. He mentioned the street being a cut-through and that it's not safe to play in the street. He mentioned available spaces with plentiful parking such as Millcreek. Evan Chatmas, wrote in support of the proposal, stating that the zoning change would help attract new and diverse businesses. Calvin Muse, 20 Davis St., wrote about the treacherous conditions for pedestrians and bikers. He mentioned traffic issues and stated that many residents have asked for traffic calming measures. He fears increased parking along Cottage Rd. that will create a different ownership experience. He asked the Board to consider safety and livability issues.

T. Haeuser answered the public's questions. Buffering is inter-zone. He read the "Section 27-xxx Buffering (MHCC)" included in the memo and noted that there are additional standards in the performance standards section under design standards. For example, he read from Section 27-1575 (c)(6), "Screening of service yards and other places that tend to be unsightly shall be accomplished by use of walls, fencing, plantings, or combinations of these. Screening shall be effective in winter and summer." He noted that this does not prevent the Planning Board from reasonable screening requirements between a commercial and residential property.

Height will increase from 35' to 45'. He reviewed setbacks: the A Zone, which underlies RT, has a 20' minimum front yard setback. MHCC would be 5' minimum and "the area between a front wall of the structure and the front property line may not be used for parking or vehicular access, except for driveways." The maximum front yard setback for MHCC would be 15' and there is no maximum in A. The A zone has a 6' side yard setback and a 20' rear yard setback. Here, the proposed zone would have no side yard setback. The rear yard setback would be 20' but "(i) where the side or rear yard abuts a residential zoning district, the buffering requirements of this Chapter shall be met; and (ii) where the side or rear yard abuts a residential zoning district and the principal or accessory building height exceeds thirty feet, the applicable setback shall be a minimum of fifty percent of the building height."

As for traffic improvements, they are guaranteed a minimum of bump outs. He showed this on the map. He showed another point where they should install rapid flashing beacons. Beyond that, he had a conversation with the woodworking shop owner about many of the different issues. The thought is to get a committee going that needs to include a representative from DiPietro's and residents in the area. They need to see what tradeoffs they can make between parking and doing things to improve safety. He mentioned that there is already a bike/ped committee. There is no chance of a traffic signal at Fairlawn because there is not enough side street traffic. He would like to do an analysis of Pillsbury and has made a note of that. Generally, traffic and pedestrian issues are identified and some things are in the works with the grant, but it may be that the process could accelerate improvements and also put more money into what could be done.

L. Boudreau asked if each property owner agreed or was involved in the request to be rezoned.

T. Haeuser said they spoke with a number of property owners; some didn't want to become co-applicants and others did. He talked to some people at DiPietro's and they were fine with the zone change. It would be incorrect to say everyone is on board.

L. Boudreau said this area came up for rezoning before and asked how many other properties were included with that rezoning. **T. Haeuser** didn't remember.

L. Boudreau knows at least one came forward. She lives in the neighborhood and is familiar with traffic issues. She is sympathetic to the gentleman who said you can't let traffic in the area dictate the whole future; hopefully they can resolve some issues here. She noted that there are many streets in the City that you cannot turn out of and you find other ways. She hates to see the neighborhood's vitality dictated by traffic and hopes it would become better with some pedestrian facilities in the area. She suggested reducing the speed limit and noted that she doesn't see a lot of people crossing here. She wouldn't go with the 45' height addition because she doesn't think houses in the area warrant that type of structure. She thinks this could be tweaked and middle ground could be found.

K. Gatti thinks the change seems to fit with the Comprehensive Plan and it's good to bring business to the area. She also doesn't think traffic should dictate. She asked if they can recommend the zoning change to the City Council with a condition that there is a committee formed to address traffic concerns.

T. Haeuser said yes, you can't make a condition but you could make a strong recommendation. They could assign the task to the bike/ped committee or create a new ad-hoc committee of Pillsbury/Cottage-area residents and businesspeople. The committee would work with Doug Howard in Public Works and also Art Hammond, the Bus Service director.

K. Gatti asked about the PACTS grant and if they know for certain what changes will happen with the grant. He said it's a virtual guarantee to get the rapid flashing beacons—do they know that for sure?

T. Haeuser thinks that is included, but he knows they had bump outs. Whatever the committee recommends would be adding onto what they've gotten approved through the grant.

L. Dillon is familiar with pedestrian challenges in South Portland and has had both cars and cyclists not stop for her in this crosswalk. She is looking forward to the implementation of PACTS money. As a commercial hub, she thinks in regulation and use, that would cause a slowing of vehicular traffic and increase in pedestrian traffic. People will be coming to utilize the area. The other part that stands out to her is updating the zone from something designed at the time when vehicles were the focal point to the more recent plan recommendations that include language to protect pedestrians, residential areas, and the ability for traffic to move along corridors. It only makes sense to update to something that is more coherent to protecting these parties. She thinks traffic management measures need to go to a committee and be implemented. If it's approved, it's not changing the lots immediately and there is time to address what is already problematic. Another recommendation is to ensure updating the remainder of the portion outlined in the Comprehensive Plan so the zone is clear and evenly enforceable. She will vote for a positive recommendation.

M. DeRose is also in favor as long as traffic concerns can be addressed. She thinks this is a good way to grow.

A. Dowling agrees that they shouldn't allow traffic to dictate the area but also doesn't want to minimize the severity of the situation. He knows someone who has been hit here. He wants people to be mindful

that this is a zone change that includes seven different properties, not a site plan for the coffee shop. He likes Omi's and thinks they need more businesses like this in the City; this is not a vote for or against the business. He is in favor of having the recommendation include a recommendation that the existing traffic conditions, which have nothing to do with the coffee shop, are addressed. The zone runs with the property, not the owners. He is concerned that the PACTS money may not be enough and asked if there will there be resources to add more to address those problems. As long as they make it clear that City Council has to address these issues, he's okay with the zone change.

T. Haeuser said he's reminded of an opportunity—Councilors have set goals for the next three years and a big one is for cutting down on complaints of sidewalks. They have a big ticket capital improvement to prioritize sections of sidewalk and pedestrian access in the City. Through these recommendations, they could get an emphasis for improvements in this area as part of the larger project.

L. Boudreau is also concerned with permitted uses, which includes “drive-through uses for shops, banks, and other offices.” She is opposed to any kind of drive-through in this area.

T. Haeuser said he hopes a recommended amendment could be taken care of without it being termed “substantive.” It's going in a more restricted direction. He is thinking about the need for another Planning Board public hearing.

K. Carr is also concerned about traffic but sees the need to bifurcate the two issues. One is whether or not the zone change makes sense; it is within the context of the Comprehensive Plan and in the direction the City has given thought to. But somehow they need to ensure there is emphasis on the traffic concern. In regard to the specifics of zoning text amendments, he agrees that the drive-through piece is not compatible. He is also concerned about building height setting themselves at odds when it comes to design standards and compatibility. He recommends keeping it at 35'.

T. Haeuser thinks it's going in the right direction in terms of neighborhood. If there are property owners within the proposed zone who want 45' versus 35' and are surprised to see it enacted at 35' when the Public Hearing said 45', he's not sure. It's better to get it right.

K. Carr said the issue of looking at design standards and compatibility and then see a standard that seems out of place in this area could invite conflict down the line. **T. Haeuser** agreed.

The Board discussed what to include in the motion.

PUBLIC HEARING CLOSED

K. Gatti motioned to recommend to the City Council to approve the creation of the Meetinghouse Hill Community Commercial (MHCC) District and the zoning map change for Assessor's Map 10 Lots 206, 207, 208, 209, 209A, 210, and 211 from the Transitional Residential (RT) and Limited Business (LB) Districts to the MHCC District. This recommendation is based on the proposal's consistency with the Comprehensive Plan. However, the Board makes a strong recommendation for the City Council to create an ad-hoc committee consisting of residents and business owners of the proposed area to evaluate the PACTS Improvement Plan regarding the plan's sufficiency to address existing issues with traffic, especially pedestrian safety. In addition, the Board makes a strong recommendation that the Council approve with restricting uses to not allow any drive-throughs for businesses and another recommendation to keep building heights within the proposed zone at 35 feet. **A. Dowling** seconded; (6-0) (**W. Laidley** absent).

