

CITY OF SOUTH PORTLAND

Name of Body:	Planning Board
Results for Meeting of:	May 9, 2017
Meeting Begins:	7:00 p.m.
Meeting Location:	Council Chambers, City Hall
Amended Agenda Issued:	Monday May 8, 2017 8:25 AM

RESULTS

Members Present

Kevin Carr, Chairperson
Linda Boudreau
Taylor Neff
Adrian Dowling
Kathleen Phillips

Staff Present

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

Absent

William Laidley
District 3 vacant

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 April 4 and April 11, 2017, Planning Board minutes.

L. Boudreau motioned to approve the April 4 and 11, 2017, Planning Board minutes.

K. Phillips seconded; (5-0) (W. Laidley absent, District 3 vacant).

Item #6. PUBLIC HEARING – Zoning Text Amendment – Proposed Zoning Ordinance Amendments for Retail Marijuana Establishments and Medical Marijuana Caregiver Cultivation Facilities

This item will be postponed until June 13, 2017, in order to have the benefit of City Council guidance from their workshop scheduled for May 22nd.

K. Phillips motioned to postpone the Zoning Text Amendment – Proposed Zoning Ordinance Amendments for Retail Marijuana Establishments and Medical Marijuana Caregiver Cultivation Facilities public hearing to the June 13, 2017, meeting. **A. Dowling** seconded; (5-0) (**W. Laidley** absent, District 3 vacant).

Item #2A. Consent Calendar. Site Plan Review – Proposed Hotel Development – 50 Maine Mall Rd – New Gen Ventures, LLC – FINDINGS

New Gen Ventures, LLC is requesting an amended site plan approval to make several proposed changes to the approved four-story 111-room hotel located at 50 Maine Mall Road. The applicant is proposing four modifications: 1) Modifications to the underground utility service location for the site to be routed from Western Avenue; 2) The relocation of the roof top mechanical equipment to the ground; 3) The basement elevation will be lower to allow additional clearance for install some mechanical equipment in the basement; and 4) Increasing the Western Avenue front yard set back from 50 feet to 30 feet, addressing the change in the Western Avenue Rights-of-Way (ROW) as a result of the Department of Transportation’s (DOT) improvements. The property is further identified as Assessor’s Tax Map 48, Lot 10, located in the Central and Regional Commercial District (CCR).

This submission will be reviewed under Chapter 27, Article XIV Site Plan Review, and in compliance with Article VII Central and Regional Commercial District (CCR).

T. Neff motioned to approve the amended site plan application of New Gen Ventures, LLC, dated November 8, 2016, through January 3, 2017, and drawings dated May 17, 2016, through April 4, 2017, for modification to the Proposed Hotel Development located at 50 Maine Mall Road, 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. **Within 14 days of the approval of the site plan amendment, the reciprocal easement agreement between 2 Meadowood, LLC and New Gen Ventures, LLC referenced on the site plan must take place, the deed must be recorded in the Cumberland County Registry of Deeds and evidence of such recording must be submitted to the Planning and Development Director.**
3. **The applicant shall provide a regiment compliance report prior to scheduling and occupancy certificate inspection per Section 30-6(c)(2), and on an annual basis, on or before July 15th, reporting sound measurement data to the Planning and Development Director**
4. **The approval of the amended site plan shall incorporate the Findings of Fact and all conditions of approval dated August 9, 2016.**

A. Dowling seconded; (5-0) (**W. Laidley** absent, District 3 vacant).

S. Puleo said the findings will be signed at the next meeting. **L. Boudreau** asked if it will impact the work they’re doing. **S. Puleo** said it will not.

Item #3. PUBLIC HEARING – Non-Conforming Lot of Record Development Request – Single-family Residence – 5 Schooner Road (formerly 736 Sawyer Street) – Catherine Menyhart and Curt Jensch – FINDINGS

Catherine Menyhart and Curt Jensch are requesting a review and approval to develop single-family residence on a non-conforming lot of record located at 5 Schooner Road (formerly 736 Sawyer Street). The applicants are proposing to construct a single-family residence on a non-conforming lot of record located at 5 Schooner Road (formerly known as 736 Sawyer Street). The parcel is 4,539 SF and located in the Ocean Street neighborhood. The Ocean Street neighborhood has a minimum lot size of 8,000 SF. The parcel was recorded in 1925 and found in the South Portland Estates subdivision plan. The applicants are proposing to construct a 866 SF footprint of a single-family house with a workshop area. The design shows two curb cuts: one from Sawyer Street and one from Schooner Road as the primary driveway access. Both driveway areas will use porous paving block for a surface. The property is further identified is Assessor's Map 21, Lot 7, located within the Residential A District and in neighborhood Ocean Street.

Public hearing notices were mailed on May 1, 2017, to 120 property owners within 500 feet of the property and the applicants and were sent by email to the Conservation Commission, Planning Board, and the City Council.

This site plan submission will be reviewed under Chapter 27, Article III. Nonconformance, Article XVIII Site Plan Review, and in compliance with Article V. Residential District A.

A. Dowling motioned to approve the site plan application of Catherine Menyhart and Curt Jensch to build a single-family home on a nonconforming lot of record, located at 5 Schooner Road (formerly 736 Sawyer Street), dated March 24, 2017, through May 2, 2017, and drawings dated March 24, 2017, through May 1, 2017, with the following conditions of approval:

CONDITIONS

- 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 applicants 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 applicants 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 applicants shall provide the Planning & Development Director with evidence satisfactory to the Corporation Counsel that a maintenance plan and drainage maintenance agreement have 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 applicants 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 applicants 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. The Stormwater Management Maintenance Plan will include porous pavers or material with equivalent performance.

L. Boudreau seconded; (5-0) (W. Laidley absent, District 3 vacant).

FINDINGS

T. Neff motioned to accept the findings with the dates changed to “March 24, 2017, through May 2, 2017, and drawings dated March 24, 2017, through May 1, 2017” in the decision and “or equivalent” added to the end of “permeable grass pavers” in paragraph 3.

A. Dowling seconded. Vote (5-0) (W. Laidley absent, District 3 vacant).

Item #4. PUBLIC HEARING – Site Plan Review – Office and Workshop – 190 Sawyer Street – Danforth S. Desna – FINDINGS

Danforth DeSena is requesting a site plan approval to construct professional office building with an assessor medical device workshop, located at 190 Sawyer Street. The applicant is proposing a 2,043 SF structure in which 1,102 SF will be used as office space and 941 SF as a workshop area and storage. The structure is designed to have a similar façade to the single-family home in the area. The site will include four parking spaces for employees in which one will be ADA complaint. The site has an existing 12-foot wide curb cut that will be used by the development. The office will be open Monday through Friday, 8:00 AM to 5:00 PM, and will usually have one full-time and one part-time employee present. Customers will arrive by appointment to visit the business. Stormwater treatment will be handled by a rain garden with an under drain connection to the City's MS4. The applicant is proposing a four-foot tall shrub buffer to protect the abutting property from the parking area. The property is further identified in mention is Assessor's Map 9, Lot 320, located within the Residential G District.

Public hearing notices were mailed on May 1, 2017, to the 102 property owners within 500 feet of the proposed project, the applicant, the Conservation Commission, Planning Board, and City Council.

This site plan submission will be reviewed under Chapter 27, Article XIV Site Plan Review and in compliance with Article V. Residential G District.

L. Boudreau motioned to approve the waiver of Section 24-38 (F)(1) requiring underground utilities; to approve the site plan application of Danforth S. DeSena dated March 27, 2017, through May 2, 2017 and drawings dated March 24, 2017, through May 2, 2017; for Office and Workshop located at 190 Sawyer 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, post and sedimentation control inspection escrow, and pay all compensation and/or impact fees as determined by the Planning Board.**
3. **The property is subject to a Stormwater Management System Maintenance Agreement that runs with the land and is binding upon the property owner and its successors and assigns as their interests may from time to time appear. Prior to the scheduling of a preconstruction meeting, said agreement shall be duly executed and recorded by the applicant at the Cumberland County Registry of Deeds, with a copy of the recorded instrument contemporaneously provided to the Director of Planning and Development.**
4. **Prior to the issuance of a Certificate of Occupancy for the project, the applicant must submit an inspection report to the Code Enforcement Officer documenting that the stormwater facilities have been installed and are functioning as designed and approved and are fully operational. This inspection report must be prepared by a qualified third party inspector as defined in Section 27-1536 (c)(3)(e) of the South Portland Code of Ordinances, as may be amended.**
5. **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.**
6. **Revise the site plan to show a six-foot fence between the property and 204 Sawyer Street.**

T. Neff seconded; (5-0) (W. Laidley absent, District 3 vacant).

FINDINGS

T. Neff motioned to accept the findings as amended. K. Phillips seconded; (5-0) (W. Laidley absent, District 3 vacant).

Item #5. 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 the Planning Board to 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. Neff motioned to send a positive recommendation to the City Council regarding the proposed inclusionary zoning and housing trust fund amendments based on their consistency with the City’s Comprehensive Plan.

The Board further recommends that the following revisions be made to the proposed ordinance:

Strike the middle column in the incentive table on page 4,

Sec. 27-1804. Ensuring Middle-Income Housing.

. . .

(d) *Standards.*

. . .

(3) Middle-Income units need not be the same size as other units in the development but the number of bedrooms in such units, either on- or off-site, shall be ten (10) percent of the total number of bedrooms in the development. For the purposes of this section, the number of bedrooms in a market rate unit shall be the higher of the actual number of bedrooms in the unit or the total area of the market rate unit, less 800 square feet, divided by 400 square feet.

(4) As an alternative to providing middle-income housing units, projects may pay a fee in lieu of some or all of the units. In-lieu fees shall be paid into the Housing Trust Fund as defined in Sec. 27-1806. The fee for affordable units not provided shall be ~~\$100,000~~ \$75,000 per unit, . . .

A. Dowling seconded. Vote (2-3) (L. Boudreau, A. Dowling, K. Phillips opposed, W. Laidley absent, District 3 vacant). Motion does not pass.

Item #7. Public Comment on Items Not on the Agenda

Russ Lunt, Brigham St., asked about CarMax and the house on Broadway across from the redemption center, which he thinks is for sale.

S. Puleo said CarMax is building and **K. Phillips** said the house is for rent.

R. Lunt thought Ms. Boudreau's comments were helpful.

Item #8. Comments from the Planning Board and Planning Director

A. Dowling thanked Mr. Misiuk for his service on the Board and said he will miss his sense of humor. He valued his unique perspective and wishes him the best.

T. Haeuser talked about a national planning conference he attended in New York.

Item #9. Adjournment

10:00 p.m. A. Dowling motioned to adjourn. L. Boudreau seconded; (5-0) (W. Laidley absent, District 3 vacant)

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.