

CITY OF SOUTH PORTLAND

Name of Body: Planning Board
Results for Meeting of: May 23, 2017
Meeting Begins: 7:00 p.m.
Meeting Location: Council Chambers, City Hall

RESULTS

Members Present

Kevin Carr, Chairperson
Linda Boudreau
William Laidley
Adrian Dowling
Kathleen Phillips

Staff Present

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

Absent

District Three vacant
At-Large 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 May 9, 2017, Planning Board minutes

K. Phillips motioned to approve the May 9, 2017, Planning Board minutes. W. Laidley seconded; (4-0) (District Three and At-Large vacant).

Item 2A. Consent Calendar – Amended Final Major Subdivision and Site Plan Review – Riverbrook Properties – 20 Lydia Lane – Riverbrook Properties, LLC – FINDINGS

Riverbrook Properties, LLC is requesting an amendment to their final major subdivision and site plan to waive the requirements that the stormwater facilities inspection report be submitted to the Code Enforcement Officer prior to obtaining the first Certificate of Occupancy for the Riverbrook apartment complex located at 20 Lydia Lane. The property is further identified as Assessor’s Tax Map 44A, Lot 304, in the Conditional Residential and Commerical District G-3.

This submission is being reviewed under Chapter 24, Subdivisions; and for compliance with Chapter 27, Article XII. Conditional Residential and Commercial District G-3.

A. Dowling motioned to approve the waiver request of Section 27-1536 (h)(1) to modify the Post construction Stormwater Management Plan to provide the applicant's Stormwater Facilities Inspection Report on or before October 31, 2017, per Section 27-1536 (c)(2)(f);

to approve the amended site plan application of Riverbrook Properties, LLC, dated May 16, 2017, and drawings dated May 16, 2017, for modification to the Riverbrook Properties approvals located at 20 Lydia Lane, 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. The applicant may obtain the Certificate of Occupancy for five buildings containing a total of 62 dwelling unit prior to the submission of an inspection report to the Code Enforcement Officer. The applicant shall provide this to Code Enforcement Officer, on or before October 31, 2017, 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 inspector as defined in Section 27-1536 (c)(3)(e) of the South Portland Code of Ordinances, as may be amended.

3. The amended final major subdivision and site plan approval shall incorporate the Findings of Fact and all the conditions of approval dated September 27, 2016.

L. Boudreau seconded; (4-0) (District Three and At-Large vacant).

FINDINGS

L. Boudreau motioned to accept the findings with “one building unit” changed to “five building units” in item #2. A. Dowling seconded; (4-0) (District Three and At-Large vacant).

Item #3. PUBLIC HEARING –Site Plan Review – Highland Ave. Solar Electric Facility – 929 Highland Ave. – ReVision Energy – FINDINGS

ReVision Sunfill, LLC, a division of ReVision Energy, is requesting a site plan approval to construct a large-scale ground mounted solar energy system located on the City-owned capped landfill site at 929 Highland Ave. The applicant is proposing to construct a 1,000.32 kW solar electric array per the City's Article XVIII Solar Energy System provisions. The applicant and the City have entered into a Solar Agreement to design, construct, install, operate, and maintain the new facility. The property is further identified as Assessor's Map 56, Lot 6, located within the Non-Residential Industrial District (INR).

Public hearing notices were mailed on May 19, 2017, to the 85 property owners within 500 feet of the proposed project and the applicant and sent by email to 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 XI Non-Residential Industrial District (INR).

L. Boudreau motioned to approve the waiver request of Section 27-1536 (h)(2) to modify the Post-construction Stormwater Management Plan, per Section 27-1536 (c)(1)(b), to allow runoff to sheet flow into the natural drainage patterns; to approve the site plan application of ReVision Sunfill, LLC dated April 11, 2017, through May 16, 2017, and drawings dated March 2017 through May 15, 2017, for the Highland Avenue Solar Electric Facility located at 929 Highland Avenue 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 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.**

K. Phillips seconded; (4-0) (District Three and At-Large vacant).

FINDINGS

A. Dowling motioned to accept the findings with #4 changed to “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.”

L. Boudreau seconded; (4-0) (District Three and At-Large vacant).

Item #4. PUBLIC HEARING – Zoning Text Amendment and Zoning Map Change – Rezoning Residential District A to Conditional Residential Use G-5. – 131 Sunset Avenue – South Portland Housing Development Corp.

South Portland Housing Development Corporation is requesting a Zoning Text Amendment and Zoning Map change to rezone their property located at 131 Sunset Avenue from Residential District A to a Conditional Residential Use G-5. The applicant has purchased the property from a previous owner who obtained a Subdivision and Site Plan approval for a five-unit cluster development. The property was also used during the construction of Phase I of the Thornton Heights improvement project conducted by the City. The applicant's proposal is to establish a multi-family housing project. The applicant is proposing to create a 28- unit housing project in which 20% will be affordable at 80% of the AMI. A proposed condition of the new zoning district will grant a "Conservation Easement Area" to the City of South Portland. The property is further identified as Assessor’s Tax Map 62, Lot 9, in Residential District A.

The Planning Board will make a recommendation to the City Council on the proposed zoning map change and zoning text amendment.

Legal advertisements appeared in the Portland Press Herald on May 9 and 15, 2017, and were posted in City Hall on May 9, 2017. Public hearing notices were sent on May 9, 2017, to 89 property owners within 500 feet of the proposed project and to the applicant and sent by email to the Conservation Commission, Planning Board, and City Council.

This submission is being reviewed under Section 27-117 Conditional or contract zoning and in compliance with Article XIII Residential District A and consistency with the City's Comprehensive Plan.

L. Boudreau motioned to postpone this item to the June 13th Planning Board meeting following the June 8th site walk. W. Laidley seconded; (4-0) (District Three and At-Large vacant).

Vote on Findings from May 9, 2017 – Consent Calendar. Site Plan Review – Proposed Hotel Development – 50 Maine Mall Rd. – New Gen Ventures, LLC

A. Dowling motioned to accept the findings with the deletion of the last two sentences in section #6, paragraph 2. K. Phillips seconded; (4-0) (District Three and At-Large vacant).

Item #5. Public Comment on Items Not on the Agenda

Russ Lunt, Brigham St., said he understands their thinking on the last item but they need the housing. Sunset is the only way to get in but there are other ways out of there. He wished the Board luck handling the marijuana issue. He also talked about the Council questioning some parts of the Planning Board's job.

Jonathan Ruterbories, 876 Highland Ave., asked for the Google Earth image for the solar panel site again. He showed that there is a path into the forest near the cemetery and halfway through the path is a ledge into the transfer station. People use that path to gain access to the transfer station and slide down the hill. He wanted to bring it to the Board's attention because it is dangerous.

Item #6. Comments from the Planning Board and Director of Planning & Development

T. Haeuser said that Mr. Lunt alluded to a City Council workshop likely in the summer or fall looking at changing part of the zoning ordinance having to do with changes and amendments to the zoning ordinance. He read the language and said some Councilors want to remove the Planning Board from being able to initiate a change to the zoning ordinance.

L. Boudreau asked how often they issue an amendment from the Planning Board. She can't think of any times they've done it.

T. Haeuser said it's pretty rare. It's not clear if it's strictly about it being initiated by the Planning Board or concerns about amendments initiated by staff to go through the Planning Board or if it's having Planning Board hearings on zoning changes before the Council. He thinks the concern is that the Planning Board may be put in a position of exercising an undue amount of policy development for the City that rightfully should be the Council's.

L. Boudreau asked if it's because they had a discussion that some of the things that come before them lately, such as the inclusionary zone, are more of a policy issue but it came to them because it's zoning.

T. Haeuser thinks it came from the fact that the Planning Board had a hearing on the marijuana issue before some Councilors wanted it and the way the ordinance got written is not the way some Councilors wanted it to be written.

T. Haeuser asked the Board for approval to relieve their secretary of having to keep their Chapter 27 Zoning Ordinance paper copies updated. It is appreciated if members use the website. It's been difficult to deal with and there have been a number of amendments.

The Board agreed to this.

K. Carr said there's a Planning Department and a Planning Board. He thinks this Board has commented in stating in regard to marijuana that until the Council articulated its policy vision, he's not sure how they have a conversation in this body. Is there confusion about the role of the Board versus the department?

T. Haeuser suspects it will be a wide ranging discussion.

A. Dowling asked if they can be kept in the loop of when the workshop will happen.

K. Carr noted that Ms. Neff has resigned and thanked her for her service.

Item #7. Adjournment

9:45 pm A. Dowling motioned to adjourn. W. Laidley seconded; (4-0) (District Three and At-Large 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.