

CITY OF SOUTH PORTLAND

Name of Body: Planning Board
Minutes for Meeting of: January 9, 2018
Meeting Begins: 7:00 p.m.
Meeting Location: Council Chambers, City Hall

MINUTES

Members Present

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

Staff Present

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

Absent

William Laidley
District 2 vacant

Pledge of Allegiance

Chairperson Carr opened the meeting at 7:00 p.m. and welcomed all in attendance. He reviewed the meeting 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 December 19, 2017, Planning Board minutes

K. Gatti motioned to approve the December 19, 2017, Planning Board minutes. L. Boudreau seconded; (5-0) (W. Laidley absent, District 2 vacant).

Item #2A. Consent Calendar. Development Performance Guarantee Releases – Armory Redevelopment at 682 Broadway, Nonconforming Lot of Record at 2 Loveitt St., Nonconforming Lot of Record at 71 Pine St., Spring Point Restaurant at 1 Spring Point Dr.

T. Haeuser introduced the item, stating that David Kasik certified that they are able to release the \$78,500.00 in Public Improvements and \$12,665.00 in Erosion Control for the Armory Redevelopment at 682 Broadway, Nonconforming Lot of Record at 2 Loveitt St., Nonconforming Lot of Record at 71 Pine St., and Spring Point Restaurant at 1 Spring Point Dr.

L. Boudreau motioned to approve the total release of the \$78,500.00/Public Improvements and \$12,665.00 Erosion Control performance guarantees for the projects listed above. K. Gatti seconded; (5-0) (W. Laidley absent, District 2 vacant).

Item #3. PUBLIC HEARING – Zoning Map Change – Rezoning from PO to CS – 505 and 707 Sable Oaks Drive and Portion of 165 Running Hill Road – Ocean Properties, Developer Collaborative, and Soley Oaks, LLC

Ocean Properties, Developers Collaborative, and Soley Oaks, LLC have requested a land use recommendation to rezone their properties from the Professional Office District (PO) to the Suburban Commercial District (CS). The properties are located at 165 Running Hill Road and 505 and 707 Sable Oaks Drive. The properties are further identified as Assessor’s Map 69, Lots 9 and 10, and Assessor’s Map 73, Lot 14, located within the Professional Office District (PO).

Per Ordinance Section 27-115 (g), the Planning Board shall make a recommendation to the City Council regarding this request.

Legal ads for this hearing were published in the *Portland Press Herald* on December 23rd and January 1st. Written notices were mailed on December 21st to owners of the 14 properties within 500 feet of the lots proposed for rezoning, to the applicant, and were sent via email to the Conservation Commission, Planning Board, and City Council. In addition, a public hearing notice was posted at City Hall on December 21st.

T. Haeuser introduced the item and showed the location on a map. He explained that most of this area is rezoned from PO to CS and showed the zoning map. He explained that there were separate requests for map changes and a text amendment around the same time. They all went through without much comment or concern at a City Council workshop and staff suggested they combine the requests and apply jointly.

He explained that for Ocean Properties, there was a mapping oversight when the recent amendments were made and the parcel was mistakenly split. This will fix that map inaccuracy and correct the zoning, bringing the entire lot to CS. The second part is from Kevin Bunker of Developers Collaborative and Tim Soley, who owns 505 Sable Oaks Drive. They felt it would be beneficial to have the lot rezoned to CS as they are interested in senior housing and the PO zone does not allow residential uses. They were able to bring along Charles Bayer of 707 Sable Oaks Drive as a co-applicant. This, in addition to 505 Sable Oaks Drive, would create a single lot “island” of CS zoning. These parts between Ocean Properties, Mr. Bayer, Mr. Soley, and Mr. Bunker create the co-application to rezone these properties from PO to CS. This has proceeded to a certain extent through Council. At First Reading on December 6th, the third part—text amendments—were separated out. Most recently, there was a continuation of the First Reading for the text amendment and it failed unanimously.

The purpose of PO is, in part, to serve an environment for largescale conference, research, and administrative facilities as well as combined residential and recreational uses. The Suburban Commercial zone provides for professional offices, urban residential development, and other uses. There is a large degree of overlap between the uses permitted in each zoning district. He explained that Ocean Properties is moving towards residential development, which is why there is a desire to move to CS zoning. He reviewed the relation to the Comprehensive Plan, reading sections from pages 6-37 and 6-38 of the Land Use Goals and Policies chapter.

This is scheduled for a Second Reading with City Council next week. The recommendation tonight is for the Planning Board send a favorable recommendation to the City Council in support of the proposed amendments to the Official Zoning Map of the City of South Portland to rezone a portion of Assessor’s Tax Map 69, Lots 9 and 10 [707 and 505 Sable Oaks Drive respectively] and Assessor’s Tax Map 73, Lot 14 [165 Running Hill Road] located within the Professional Office (PO) District to the Suburban Commercial (CS) District.

Kevin Bunker, Developers Collaborative, and Pete Connell, Ocean Properties, introduced themselves.

PUBLIC HEARING OPEN

Russ Lunt, Brigham St., thinks it is a wonderful idea to rezone to open up development. He is supportive of it.

L. Boudreau is concerned that they're eating away at the PO zone. They had hopes for the zone when it was created; they don't have a lot of space designated for professional office buildings and they will end up scattered throughout. She understands the Ocean Properties request but the other two seem like a way of eating away at the PO zone.

T. Hauser said the PO zone talks about recreational amenities of 100 acres or more associated with some developments. It's very specific in that way for the golf course. The idea behind it was for corporate headquarters. For example, one building was the Bass Shoe headquarters and now it's various insurance companies. There is a substantial office building nearby. He doesn't think they will see much change; the buildings could be PO or CS. The difference with CS is more residential being brought in than originally considered.

L. Boudreau referred to the map. She can see how the hotel makes sense. She hates to see them lose opportunities for corporate headquarters. Businesses would be fortunate to be near the highway and airport. To move to residential housing seems like they may be giving up better opportunities. She needs to be convinced.

Kevin Bunker, Developers Collaborative, said Mr. Soley had a similar experience with this parcel and an experience with another parcel they controlled in Brickhill. The last lot was permitted for an office use in 2007. Ultimately, he watched them go through gyrations to lure a tenant there through the depression and after. They found consistent feedback that the office market has changed and the suburban office park isn't what people want anymore. They were consistently unsuccessful and finally decided residential works now. They didn't see the office as just a down-cycle, but the office market was going the wrong way and they didn't see it coming back. They pursued the zone change to residential and were successful. Mr. Soley has had a similar experience with this land. Mr. Soley is primarily an office developer and he himself is more residential. Mr. Soley is very successful but he's been unable to get any traction before, during, and after the recession here. They don't feel that market is coming back. He noted that WEX is moving to downtown Portland.

L. Boudreau sees this site as easier access and easier for employees. Maybe it's glamorous to be downtown, but to have to work there isn't always easy. She hates to give these up for that reason. She's okay with Ocean Properties and can see it's connected on that side but hates giving up the parcels here.

L. Dillon thinks it's great to bring residential and mixed-use to the area because the Comprehensive Plan has that as the eye towards the future for this area. She's not concerned but part of bringing more residential means there needs to be a conversation about the infrastructure for things like sidewalks, accessibility, and parking. Making it a more residential feel will take more work than a zone change.

M. DeRose asked about senior housing; the Comprehensive Plan seems to suggest that there's plenty already. She can see housing, but the tradeoff of potential high-paying jobs that come with the PO zone to senior housing may not be a good tradeoff.

K. Carr said that he is trusting that financial studies were done to find the highest and best use of the property. He gathers from Mr. Bunker's comments that the highest and best use is what is more allowed in the CS zone versus just the PO zone.

K. Bunker said yes. It is true that they're leaning towards senior housing but that doesn't rule other things out. They are comfortable that is the highest and best use of the property.

PUBLIC HEARING CLOSED

K. Gatti motioned to send a favorable recommendation to the City Council for the proposed CS zone map amendment for the extension of the CS zone to 505 and 707 Sable Oaks Drive and to the PO zone portion of 165 Running Hill Road.

L. Dillon seconded; (3-2) (**L. Boudreau** and **M. DeRose** opposed, **W. Laidley** absent, District 2 vacant).

Item #4. PUBLIC HEARING – Preliminary Major Subdivision Review – Big Babe's Traven – 60 Ocean Street – P&G Developers, LLC – FINDINGS

P&G Developers, LLC is requesting a preliminary major subdivision review to construct a six-unit condominium development located at 60 Ocean Street. The applicant is proposing to redevelop the site with a new mixed-use development including a restaurant on the street level and five dwelling units on the upper levels. The applicant is proposing eleven parking spaces on site, with the remaining parking for the restaurant located on various streets near the site. The redevelopment project is expected to generate 35 AM peak hour trips and 32 PM peak hour trips for traffic impacts. The proposed building is expected to be approximately 48 feet tall. The property in mention is Assessor's Map 15, Lots 102 and 103, in the Village Residential District (VR) and Village Commercial District (VC).

Public hearing notices were mailed on January 2, 2018, to the 224 property owners within 500 feet of the project and the applicant and were sent via email to the Conservation Commission, Planning Board, and City Council.

T. Haeuser introduced the item and showed the location on the map. This is the site of the former Griffin Club on Ocean Street in Knightville. He showed the street view and explained that this is a preliminary subdivision review. If the applicant is approved tonight, the project will move on to provide more detailed information for the final approval. The preliminary subdivision review looks at the basics of the project, including space and bulk information. They have looked into traffic, stating that the residential condominiums generate three AM peak hour trips and three PM peak hour trips. The proposed restaurant will generate 32 AM peak hour trips and 29 PM peak hour trips, totaling 35 AM and 32 PM peak hour trips. Access to the parcels from C Street will be through a 24-foot two-way driveway leading to eight parking spaces. Three parking spaces will be located under the building on the ground floor from C Street. He showed a picture from the applicant.

The applicant is proposing a total of 11 on-site parking spaces for residential use and employees of the restaurant/lounge. The applicant is proposing to utilize on-street parking to serve the restaurant/lounge use. The applicant stated that their preliminary survey of the parking demand in the Knightville area, within 500 feet of the proposed building per the ordinance, could provide up to 48 parking spaces along Ocean Street. He's not sure how far the applicant would go tonight into demonstrating this, but it is one of the principal aspects that they look at by final approval.

The applicant is proposing a post-construction stormwater management plan per the City's subdivision requirements. The applicant states that the overall runoff discharge from the project will be reduced

slightly due to increased impervious areas with the proposed development. He explained that staff is waiting until final review to work with the applicant on waivers that are required. Similarly, conditions will go with the final approval.

Jim Fisher, Northeast Civil Solutions, introduced himself and stated that the applicants and building architect were in attendance as well. He stated that the packed submitted to the City for review is comprehensive and contains more than just the preliminary subdivision information. There will be six units, one being commercial activity on the first floor. The basement goes with the first unit and the condos are above. The owners will live there and operate the restaurant. It is unique in that this is a relatively small building and anything that goes on the site will be better than what was there before. The building itself needs to be replaced; it will be taken down through the foundation and rebuilt, building from below ground up. In addition to the new building, there will be new utility connections and updated systems servicing the building. While the lot is small, impervious area will be decreased, promoting better stormwater management. Because the City has a separated stormwater system in this area, stormwater will go into the system where it belongs.

He reviewed parking, stating that Knightville is up-and-coming and this is a small piece to the overall puzzle. The restaurant will have 47 overall seats in the restaurant and parking onsite will accommodate those living and working there. Dumpsters will be in this area as well. There are three parking spaces under the building and a lot. On-street parking will be for patrons. As mentioned before, utilities will be redone. They have met with Central Maine Power and Portland Water District. At the point of final approvals, they will have the necessary letters.

Knightville has increased its aesthetic appeal over the years, which includes on-street parking on Ocean and some side streets. Although some minor streets are open to parking, there will be an abundance of parking on Ocean so that those streets are not needed to be able to accommodate the number of patrons. They would only need 12% of the overall spaces of those available in the 500 SF radius and many would be utilized after the businesses are closed. Hours of operation are late morning for lunch and they will be closed no later than 1 a.m. They have done observations and have seen the majority of the parking spaces are empty during these times. If they limit it to no parking on minor streets and only allow parking on Ocean, they would need 30% of the parking on that street.

Lastly, they have done a traffic report and geotechnical test. Much of this overall area is old fill, but borings show this specific area is solid ground.

T. Haeuser added that one important aspect they are looking at during final review, if it proceeds, would be the design of the building. This area of Knightville is in the Knightville Design District. This is the only area of the City that has this particular set of design performance standards. Similar to what Board members are familiar with in terms of looking at design and architect peer review comments on design for nonconforming lots of record infill development, they will look not only at the elevations but weigh in on the look and architecture of the building. They received the peer review architect comments and they've been shared with the applicant. If it proceeds, there will be a detailed discussion on the architecture.

PUBLIC HEARING OPEN

Russ Lunt, Brigham St., thinks this is an absolute win-win. It is an iconic building and it's wonderful to put parking underneath. He thinks they're working well with what they have. He thinks it will be a wonderful addition.

Stephanie Collins, 28 B St., welcomed them to the neighborhood and said she is excited about the project. They currently have a quiet neighborhood after 11 p.m. and she would like considerations in

regard to soundproofing, dumpsters, and cigarettes. Generally, she feels positive about the changes. During survey work, she's found that there is a tree on both properties and she thinks they will have to come to an agreement about what to do about it.

Timothy Donahue, 72 Ocean St., welcomes them. He asked about parking; they talked about it in percentages and hopes to know what it means in real cars. He also wonders about the hours and is concerned about noise. Businesses close and people leave but that's when residents come home and park. He wants to ensure they're dealing with the reality of the neighborhood.

Adele Edelman, 5 C St., said they liked having the Griffin Club because it was unique. They're concerned about parking. She's not sure about the number of parking spaces and thinks it may be covered in theory but not reality. She believes parking is an issue in the area. She spoke about the possibility of residential permits for some letter streets and believes residents should have access to parking in front of their homes over those coming to the restaurant. She doesn't think it's a big issue but it should be talked about now. She is looking forward to the project.

Steven Williams, 72 Ocean St., is a neighbor of Mr. Donahue. He asked for more information on what the Village District is. When someone has a 48' building that is open until 1 a.m. selling alcohol next to a residence, the first thing he thought of was the noise control ordinance. He asked for more information on the ordinance. He believes its impact on everyone will determine the way in which the project is accepted and doesn't believe the investment in his unit is their primary concern. He mentioned concern about trash hauling noises early in the morning.

Susanne Conley, 39 C Street, handed out photos of parking in the area to the Board and some members of the audience. She grew up in Knightville and is concerned about the parking. She has three cars at her residence and needs to utilize Waterman Drive sometimes. She's concerned about parking, snowbanks, and fire truck access. She is not against the development; the building is beautiful and in her mind, she pictures people coming from everywhere. She wants fairness; at a Council meeting, Councilor Rose brought up the idea of resident parking on letter streets and she doesn't think that's a bad idea. She is also concerned about noise from cars and people.

Scott Allmendinger, 72 Ocean St., works in the restaurant industry. He congratulated the applicant on the project and realizing their dream. He raised a family in a home and their dream was to move to an urban setting when their kids had grown—walking to the boat, post office, and farmer's market. Their dream is being realized and they would like to be comfortable here for a long time and be comfortable with his neighbors. He's here to learn more and carry on a conversation with neighbors. He looked for parking regulations and could not find them. He asked if there are any potential waivers. He's also curious if the number of seats include the bar, a meeting space, or banquet hall. With windows open in the summer, noise is concerning at 1 a.m.

Bland Banwell, 50 C Street, supports the business. She believes parking in the area is an issue and request they go to Councilor Rose about parking for side streets.

Caroline Hendry, 75 B St., welcomes the applicant to the neighborhood. Living here is convenient and gets better every day. Her concern is parking. She was on the Parking and Traffic Committee in Knightville for two years, where they had an interesting discussion on parallel versus angled parking. She would hate to revisit that discussion again—it divided residents and businesses. She would like that predicament to be taken into consideration.

K. Carr asked Mr. Haeuser to talk about parking requirements. **T. Haeuser** said Mr. Puleo has been reviewing this.

S. Puleo said parking is broken down in two ways. First is the multi-family use with five residential units. The parking standard is 1.5 spaces per unit, so the residential aspect should provide eight spaces. The other part is the restaurant use, broken into three categories: employees, lounge, and the amount of seats the restaurant has. In the parking standards, notwithstanding this is a design district, says there should be one space per three employees. They have 12 employees, so four spaces are required. The lounge is 250 SF and works out to one space per 100 SF, so three spaces are required. For the restaurant, there should be one space per four seats. 48 seats means 12 spaces for the restaurant. This is the design district, which allows for a 50% reduction of the restaurant component of the parking ratio. The original component is 19 spaces and the reduction rounds up to ten spaces. For the restaurant component, they need to show 10 legal, unrestricted parking spaces within 500 feet.

K. Carr asked the applicant to show where the spaces are.

J. Fisher showed on the screen that there is a parking lot behind the building and the three spaces underneath. For the ten spaces, people will park where they want to, but they went beyond and looked for 16 spaces. The percentage discussed equates to 16 on-street sites. If there are 143 on street parking spaces now within a 500 foot radius, 16 is a low number. As for the restaurant seating, this means all seats within the restaurant. In addition to the actual seating capacity, there will be a lounge with a couch. They have accommodated for those parking spaces. 12 employees will not be there at one time. The owners will live in the building and this is their restaurant, so they will not want to “deal with things later.”

K. Carr said as far as operating hours go, this is preliminary. It is within the Board’s purview to add conditions on approval on things like operating hours and trash removal.

Eric Flynn, Big Babe’s, stated that they are allowed to be open until 1 a.m. but that’s not their intention; they do not expect to be open past midnight and there will be no dumpster hauled at 3 a.m. This is a completely different business model than the Griffin Club. They selected Knightville as a neighborhood establishment that is designed to be supported by those who live there. The intention isn’t to bring traffic from those who don’t live in the area.

T. Haeuser said restaurant/tavern is an allowed use in the zone, as this is a mixed-use zone. This means that legally, to a certain extent, some impacts from the restaurant use are to be expected. On the other hand, the Board can impose reasonable conditions to try to minimize it as much as possible. The question of side doors opening late at night and music spilling out can be asked. The response to these questions that the owner lives there isn’t sufficient. You have to be able to say they’ve made accommodations. The noise ordinance is a machinery-related ordinance and is of no help.

K. Carr asked Mr. Haeuser to talk about the concept of the Village District.

T. Haeuser said it’s been discussed to a certain extent; the Village District is where you can tear down a gas station and add a condo building with offices and a coffee house. It’s a mix of uses. The great thing is that you get to live there, enjoy the amenities, and not have to hop in your car all the time. The downside is people live closer together and you have to figure out how to make it work.

K. Carr asked about the sketch that shows outdoor seating. When he adds up the number of seats, these don’t seem included. He asked if outdoor seating should be calculated.

T. Haeuser said yes, if that’s what they’re proposing. Additionally, waste hauling hours has become a condition of approval for many approvals.

K. Carr said that in regard to the question about waivers, it is too soon to tell. There are situations that

may include waivers and that will be looked at in final stages.

S. Puleo said they're not ready to recommend waivers. As Mr. Fisher mentioned, they are far along in the development of their plan. The applicant needed the plan to be worked out so they could understand things like pricing. What they see today is not necessarily what they will see in the final review.

K. Carr said there were comments he will address after they hear from the Board regarding neighbor-to-neighbor comments.

T. Haeuser said relative to side street parking in the winter, the applicant has said that is what people do practically and what they need to demonstrate relative to the ordinance. The applicant suggests they do not need side street parking. It will be up to the Board to see if they feel the applicant has provided sufficient evidence of that. Otherwise, to a certain extent, the issue of side street parking has been around for a long time. It likely would be the subject of more discussion by the Comprehensive Plan Implementation Committee because Knightville is most likely their next project. Otherwise, it is not the applicant's problem to solve side street parking at this point.

K. Carr said that oftentimes, the role of the Planning Board is mysterious to the public. They do not make policies but have more of a regulatory role. As was stated in the preliminary comments, they have the responsibility to determine whether the applicant has met the burden of the requirements of the ordinance. They hear things that they think are great ideas and try hard to pass this information to Council. Discussions about traffic on Cottage Road is an example of this. It sounds like there's interest among Councilors to look at how to appropriately share side street parking and he encourages the public to talk to the Council about it.

K. Gatti asked about the fire department's concern about two different addresses. 60 Ocean and 15 C Street. **S. Puleo** said addressing happens after the final decision. They have a staff member who goes through to ensure properties have the proper address to coincide with the 911 directory. They will figure out the most appropriate address.

K. Gatti thinks it sounds like a great proposal. She sympathizes with parking concerns from residents. Any small neighborhood such as this will have concern with a new business. She hopes they can be fair.

L. Boudreau said it meets the space and bulk requirements and is a good preliminary application. The audience has brought up issues that she would have issues about as a Planning Board member. She looks forward to site plan.

L. Dillon thinks it's a beautiful building. They are lucky to have concerned but supportive neighbors. It meets the standards but they've mentioned that on paper versus reality is different. She's curious as she's lived above restaurants before. She enjoyed it but there were two different restaurants—one was fine dining where the number of seats reflected the number of people and the other was a bar with an outside patio. They have the idea of number of seats but she wonders about maximum occupancy.

J. Fisher said fire code concern is determined by emergency services. As the lounge area comes into play, this is a place where people will wait to be seated. There is a square footage requirement and "X" number of people allowed in the building. It's not an establishment where you can pack people in. They will make sure things are up to speed.

L. Dillon said she, like Mr. Carr, recommends to the public that if you would like to pursue seeking side streets as resident-only parking, let the City Councilors know. It may be an issue for applicants with patrons not reading signage so if people can't park somewhere, help them realize that.

M. DeRose thinks it's a wonderful project. She's a historian and she'd like the history of the building on the record. In South Portland, they don't have a list of historic buildings but this is associated with Ellen G. White and the Seventh-day Adventist Church. It's a significant site and could probably be listed as National Historic Landmark. She feels badly that there aren't protections keeping it from being torn down. She thinks the City needs to do a better job taking care of its history.

T. Haeuser asked that in terms of occupancy—will there be concerts or events that would draw additional people?

Ginger Cote, 60 Ocean St., thanks everyone for their support. She hears the concerns and wants to be a good neighbor. As for music events, they are going out of their way to soundproof as much as possible. As for side doors, there will be emergency exits but there will be only one way in. She will not allow people to meander out a side door, smoke, and have a loud conversation and will keep a close eye. If a dumpster person shows up at 3 a.m., they will not be her dumpster person anymore. She'd like to have concert events; she hasn't put it together yet but there is a capacity and if it was someone who would draw more patrons in, it wouldn't go until midnight. She can announce where to park as much as she can. As Mr. Fisher said, people will do what they want but she will encourage people to park on the main way and not take up residential areas. She would like to have artists to draw people in, but she's not sure if she can pull that off. It wouldn't be any more than what capacity is allowed.

K. Carr said they have an articulation of the number of seats and from public safety there will be maximum occupancy, but they don't know that number yet. The Board can ask for that in the final stage.

S. Puleo suggested that the architect to meet with Deputy Chief Williams to get that number for the final review. Typically this is not something they would have then but it can be requested.

G. Cote said that as far as enforcing capacity during a show that could draw people, aside from security, there would be someone at the door with a clicker.

L. Boudreau understands capacity may be variable in the lounge, but in the restaurant there is seating for 48. Does that become capacity or can you remove the tables and does that change capacity?

S. Puleo said yes, theoretically it would. When they talked about parking, 250 SF has a parking ratio. When you take the seats out, there's a bigger lounge area. If you take seats out to make a bigger capacity, you have to show the ability to park that number of people.

T. Haeuser said they're clear that given the sensitivity and limitations in the area relative to parking, they need to applicant to work with the fire department to come up with a maximum occupancy that will become a condition of approval and will require a demonstration of adequate parking.

S. Puleo said parking could be a different situation if parking could be leased for events. It could be case by case. It will take discussion between the architect, Ms. Cote, and the fire department.

T. Haeuser said it may be that the project is approved at this point and later they find additional parking, and they can come back as an amended subdivision site plan or a de minimis change to get a higher occupancy.

Matt Provencal, architect, explained that they will work with the fire department.

K. Carr said this is still a Public Hearing and they are happy to allow new questions.

T. Donahue asked about the outdoor seating. He hadn't heard of it before.

K. Carr said he raised the question after seeing a drawing. There should be clarification during the final subdivision.

J. Fisher said the final aspect will be two phases. They would like to deal with subdivision and then go into site plan. **K. Carr** said when there are questions such as this, it can tie Board up because counting the number of seats and seeing the number on paper doesn't add up. **J. Fisher** said that a seat is a seat, inside or outside. The number doesn't change, just the location.

L. Boudreau asked about a timeline. **J. Fisher** said most work for the design and engineering is ready to come quickly. He hopes for the end of February, beginning of March.

PUBLIC HEARING CLOSED

L. Boudreau motioned to approve the preliminary major subdivision application for P&G Developers, LLC, dated November 28, 2017, through January 4, 2018, and drawings dated January 23, 2015, through November 28, 2017, for Big Babe's Tavern located at 60 Ocean Street, with the following conditions:

The conditions of approval will be provided for the final major subdivision and site plan for the Planning Board.

L. Dillon seconded.

K. Carr said that with regard to questions and concerns from neighbors, members of the Board have commented more than once that most successful projects have been those where there has been collaboration and negotiation between neighbors. They encourage an open dialog. He remembered that when another business opened down the street, there was a discussion about parking and the concept of leveraging social media as communication with customers.

Vote (4-1) (M. DeRose opposed, W. Laidley absent, District 2 vacant).

FINDINGS

K. Gatti noted that the last paragraph of #3 has two periods and #4 should say "is within 500 feet." Also, "Tavern" should be spelled correctly.

K. Gatti motioned to accept the findings as amended. **L. Boudreau** seconded; (4-1) (M. DeRose opposed, W. Laidley absent, District 2 vacant).

Item #5. PUBLIC HEARING – Zoning Map Change Request – Property Rezoning – 780
Broadway – SevenEighty Broadway, LLC and Aquarius Property Management, LLC

Seven Eighty Broadway, LLC and Aquarius Property Management, LLC are requesting a zoning map change to consider proposed amendments to the Official Zoning Map of the City of South Portland dated September 8, 2010. This map is part of Chapter 27 "Zoning" of the Code of Ordinances of the City of South Portland, Maine. The amendments are to rezone a portion of Assessor's Tax Map 18, Lot 36, located within Residential District G, to the Limited Business District.

Per Ordinance Section 27-115 (g), the Planning Board shall make a recommendation to the City Council regarding this request.

Legal ads for this hearing were published in the *Portland Press Herald* on December 26th and January 1st. Written notices were mailed on December 21st to owners of the 69 properties within 500 feet of the lots proposed for rezoning, to the applicant, and were sent via email to the Conservation Commission, Planning Board, and City Council. In addition, a public hearing notice was posted at City Hall on December 21st.

T. Haeuser introduced the item and showed the location on a map. He explained that the applicant requests that the property be rezoned from Residential G to Limited Business LB order to be subject to the same zoning space and bulk requirements and other zoning standards as those that apply to other commercial properties located along a business corridor. He showed zoning map, showing that this property is in the corner of the G zone. When this applicant looks around, they see larger signs such as that at Broadway Variety. Being in the G zone, they are limited to two square feet.

The Residential G zone allows both single- and multi-family dwellings and some institutional, medical, and office uses. Special exceptions include business and retail serving residents of the immediate area on lots of at least one acre. He explained how this is Euclidean and because of that, it has Residential A zoning uses nested within it. While G has an emphasis on residential, LB emphasizes retail and office. It allows retail, restaurant, lodging, business offices, personal services, and other such uses as well as single- and multi-family residential. It is higher the Euclidian zoning pyramid and allows both Residential G and Residential A land uses. He reviewed how this fits within the Comprehensive Plan, referencing pages 6-13 & 14 “Broadway–Pleasantdale-Buttonwood Commercial Hub to Pleasantdale Elm/Hill Neighborhood Center.” He explained that the only inconsistency is the retail portion. The location is next to what the Comprehensive Plan recommends as the proposed Pleasantdale-Buttonwood Community Hub, which would allow retail uses if adopted in the future.

He noted that the memo is not accurate when it says the application is scheduled for a Second Reading on January 15th. This has not gone to the City Council yet. Staff opinion is that this is very largely consistent with the Comprehensive Plan they recommend a positive recommendation.

L. Boudreau asked to see beside and behind the property on Google Earth.

T. Haeuser showed this on the map. The Board reviewed this; the property next to it is residential although it’s in the LB district. Down Tanner Street is residential.

L. Boudreau asked about buffering.

S. Puleo said this property has been through site plan review for the addition on the building, the purpose of which is a professional office. Subsequently, it is more commercial in nature and the Comprehensive Plan supports the commercial use.

Andrew Greene, owner, introduced himself. He said he has spoken to the neighbor behind the property and he complimented the property, as have other neighbors. He agreed that the prior discussion is on target. This is a professional office with three Class A office spaces. They are asking that the zoning be appropriate for the property; it is not residential. They would like the same as any other commercial business in the area. He believes that LB is on target, and the point about signage is correct.

PUBLIC HEARING OPEN

Justin West, 768 Broadway, has no problem with an office building but is concerned about it being a retail building. His bedroom is nearby; something like a restaurant would be noisy. If it’s a signage issue,

he has no concern. Opening it to be LB with retail and restaurant uses is his concern and he doesn't want that to happen.

A. Greene said that seeing the inside of the building and the way it's been built out, it is not for retail space. There are three professional tenants with multi-year leases. It is appropriate for professional office space only.

L. Boudreau said when this came to the Board before, she thought it was a woman with a mortgage company. **S. Puleo** said it was a property management company.

L. Boudreau didn't know it would be three businesses. **S. Puleo** said it was built-out for leasing more space. The parking shown is designed for the office space and only the office space. For it to be retail or a restaurant involves more parking. A change of use such as that would trigger it to come back for Planning Board review.

L. Boudreau said the building looks beautiful. She mentioned it because others who had seen meetings may wonder what happened to the property management company. **A. Greene** said the front space is his business, Aquarius Property Management. They added two office suites.

L. Boudreau said it makes sense on the map to put it into LB. She thinks the idea of having LB along Broadway is appropriate. She is concerned about the residential properties and ensuring these are professional businesses. If it goes into restaurant or another use, it is another ballgame. She would want to be assured they would have the chance to look at it again.

S. Puleo said he's not sure how it could be conditioned, but Code Enforcement would be concerned. Changing the use to be more intense would trigger the Code Enforcement officer to send it to the Board for site plan review. A change of use, not only construction, could trigger Planning Board review. Right now, the property is at its max.

L. Dillon is surprised they're seeing this before City Council. She knows there's been pushback from them about spot rezoning, though she agrees with Ms. Boudreau and the applicant that this makes sense. She's surprised anything on that part of Broadway is supposed to have an emphasis on residential first, based on current appearances and uses and secondly, because, as the Comprehensive Plan lays out, they continue to move towards transitioning lots on major corridors to mixed-use. She thinks this falls in line.

T. Hauser said there has been a request from some City Councilors for zone changes to go to Council first in the sense that they're policy questions and there's a secondary aspect that if they see it first, there's less chance of it coming to the Board twice. Within the last couple weeks, the policy has been reviewed and people in manager's office have looked at the ordinance. The ordinance says that applicants for zone changes come to the Planning Board first. If the applicant wants a read from Council, and they advise applicants that it's a good idea in some cases, they can request to be on a Council workshop. In this case, the applicant feels that they're adjacent to the LB zone now and would like to move the line, so they came directly to the Board according to the ordinance.

J. West says there has to be a line between the two zones. He asked about the number of units and what prevents one unit from becoming a cell phone store or another business. If it's LB, it opens the door for anything. If one unit changes, it will impact traffic and will negatively affect him. What prevents one or more unit from becoming a restaurant or retail establishment?

S. Puleo said what prevents it is parking. Parking is set up for the three units and that exists and that meets the office use. If you're talking about retail, it needs more parking than an office use and it's a

significant impact to the site. This would trigger a Planning Board hearing. As it stands today, the site can only accommodate the three office spaces that Mr. Greene has and the use itself goes with the parking. A change of the use means a change in the parking.

J. West asked if that's known as a fact and if there's a limited amount of parking there now. **S. Puleo** said the applicant went through a site plan review with the Planning Board and they approved the number of parking spaces.

J. West said based on the lot lines, there's no room for more parking. Based on that, there's no way to add more spaces. **T. Haeuser** said that is unless they tear down the building and create a smaller building and add parking.

J. West said that will always be a concern of his. Opening it up to LB could open it up to anything. Most of the lot is pavement and there's been a lot of runoff; there have been many things that have snowballed over time.

K. Carr suspects that they could construct theoretical arguments for every lot in the City. He believes he has heard that as currently configured, there is not parking on the site to support a retail operation. If that's the core concern, it does not add up.

S. Puleo agrees. It's a hard thing for abutters to be faced with. This is a land use recommendation to City Council and they ultimately have the last say on the policy. Second, the Comprehensive Plan that the Council adopted slated these types of properties, such as Mr. West's, on major corridors to become more mixed-use going forward. From that perspective, Mr. Greene's request is consistent with the Comprehensive Plan. Given the fact this will be LB and the site is so limited, Mr. Greene made a significant investment and there are tenants, he cannot see retail business coming here.

T. Haeuser said Mr. West could come into his office to talk about the Comprehensive Plan. He spoke about the Commercial Hub, explaining it is in between a downtown and neighborhood center like Thornton Heights and Meetinghouse Hill. Currently there is no push to implement a recommendation for this hub, but there will be at some point.

K. Carr noticed a large sign on a nearby property. **T. Haeuser** said the sign is grandfathered.

PUBLIC HEARING CLOSED

L. Dillon motioned to approve a favorable recommendation to the City Council in support of the proposed amendment to the Official Zoning Map of the City of South Portland to rezone a portion of Assessor's Tax Map 18, Lot 36 [780 Broadway], located within Residential District G, to the Limited Business District LB. **K. Gatti** seconded; (5-0) (W. Laidley absent, District 2 vacant).

Item #6. PUBLIC HEARING – Amended Subdivision Plan – Parcel Boundary Change between Lots 4 and 16 – 55 Foden Road – E. G. Foden Company – FINDINGS

E. G. Foden Company is requesting an amended subdivision approval to relocate the parcel boundary line of the Airport Industrial Park subdivision located at 55 Foden Road. The Airport Industrial Park was approved by the South Portland Planning Board on June 8, 1976 and recorded at the Cumberland County Registry of Deeds (CCRD) in Plan Book 113, Page 58. The existing parcel located at 55 Foden Road is comprised of Lots 4 and 16. Lot 4 fronts Darling Ave and Foden Road and Lot 16 fronts Foden Road and Western Ave. The request for the amendment consist of revising Lots 4 and 16 common boundary by convey the land easterly of a stream, to Lot 4. The request also includes a Condominium Plat for the existing located on Lot 16 to create a commercial condominium

association consisting of the two owners of the existing businesses in the building. The parcel is further identified as Assessor's Tax Map 67, Lot 6, located within the Central and Regional Commercial District (CCR).

Legal advertisements were published in the Portland Press Herald newspaper on January 2 and January 8, 2018. Public hearing notices were mailed on January 2, 2018, to the 17 property owners within 500 feet of the project and the applicant and were sent via email to the Conservation Commission, Planning Board, and City Council.

T. Haeuser introduced the item and showed the location on a map. He explained that this is a lot line change but also a subdivision, which requires an amended subdivision approval because it's a lot line within a subdivision. Also, technically it's a subdivision because they're turning it into a condominium. The first interesting thing is that they've chosen for the new lot line to follow the stream, which can be explained by the applicant why they want to do this when streamlines change. Second, this is an amendment of a subdivision that goes back to 1976.

Shawn Frank, Sebago Technics, said that lot lines weren't paid a lot of attention to in 1976. There were two lots owned by one person at that point. Now, Bedderrest and Agren Appliance are going to purchase the building and own it as a commercial condominium. The aerial photo shows gravel parking that was developed when it was Thatcher's. The brook has a tie line associated with it. Long Creek goes through and they decided to follow the creek because that establishes a tie line. They will have two theoretical pins. There will be a lot line associated with it and it seemed like a physical divide with steep banks. Mr. Foden will retain ownership of the office on the corner of Foden Road and Darling Avenue and the property of the existing building on the corner of Western Avenue and Foden Road will be conveyed.

T. Haeuser asked if a timeline means the ends are tied down. **S. Frank** said they tie down the ends so there's a bearing and distance associated. They will know the ends. This is well defined with steep banks.

PUBLIC HEARING OPEN

No comments

PUBLIC HEARING CLOSED

K. Gatti motioned to approve the amended subdivision application of E.G. Foden Company dated November 13, 2017, through December 27, 2017, and drawings dated June 8, 1976, through November 9, 2017, for a boundary line change between Lot 16 and Lot 4 located at 55 Foden 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. Prior to the release of the mylar, the applicant shall pay all outstanding review escrow account fees.

L. Boudreau seconded; (5-0) (W. Laidley absent, District 2 vacant).

FINDINGS

M. DeRose noted that #4 should say Darling Road. **K. Carr** noted that Mr. Puleo added the second condition to the findings.

K. Gatti motioned to accept the findings as amended. L. Boudreau seconded; (5-0) (W. Laidley absent, District 2 vacant).

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

Russ Lunt, Brigham St., said it's good that businesses want to come here. He's all for brining businesses to South Portland.

Item #8. Comments from the Planning Board and Director of Planning & Development

T. Haeuser said there is a second meeting in January.

K. Carr reminded the Board that they will move to Wednesdays in February. However, they will meet Monday, February 12th instead of that Wednesday.

L. Dillon requested that staff include the motion language where possible. This is typically where her delay is. If there are other places it could show up, she appreciates that. She also asked if they enforce time limits on speaking. **K. Carr** said there have been instances. The Chair can limit to five minutes.

Item #9. Adjournment

10:00 p.m. L. Boudreau motioned to adjourn. K. Gatti seconded; (5-0) (W. Laidley absent, District 2 vacant).

Respectfully submitted,
Dana Bettez 1/11/18

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.