

Meeting of December 6, 2017

South Portland City Council
Position Paper of the City Manager

Subject:

ORDER #81-17/18 – Appealing the denial of the Public Works’ Director for a new curb cut at 851 Main Street for Rolando’s Redemption Center. Postponed on November 20, 2017. Passage requires majority vote.

Position:

On November 6, 2017 the City Council denied an appeal by Donald Cook, who sought for Council to overturn the decision of the Public Works Director to deny a curb cut in front of his property at 851 Main St. This request was the result of a State project that included the installation of sidewalk and curbing in front of the property, which had previously been wide open without a defined entrance/exit. However, as staff did not notify Mr. Cook of the Nov.6 meeting date, Council agreed to reconsider his appeal by passing a motion to reconsider at its November 20, 2017 meeting. At that meeting, Council postponed action on this matter as neither the Police Chief nor Public Works Director were present to potentially refute the safety concerns raised by Mr. Cook as the basis for his appeal.

On November 29, 2017, the Police Chief and PW Director met on site with Mr. Cook. After the meeting, neither changed their opinion on the matter and thus do not recommend that Council overturn the PW Director’s decision to deny the curb cut. Both the Chief and PW Director recommended that Mr. Cook stripe his lot and sign it for one entrance in. Mr. Cook agreed to drop his appeal for the time being so that he could try their recommendations but indicated he may come back with another appeal request pending the results of the striping and signage.

Due to some other questions that arose during Council’s November 20th meeting, staff asked Corporation Counsel to review the limits placed on City Council by ordinance when considering a curb cut appeal. According to Sally Daggett, the ordinance requires that an applicant must make a showing of “hardship” in order for the Council to overturn the denial. There is no exception for safety. As Mr. Cook indicated at the last meeting that this did not place a hardship on him but rather he was appealing due to safety concerns of vehicles backing out onto Route 1, Council would be unable to overturn the PW Director’s denial as it does not have the authority to do so under the ordinance. Should Council wish to have this power in the future, the ordinance could be amended.

Requested Action:

Council withdrawal of this item, without prejudice.



City Manager



Doug Howard
Director of Public Works
Phone: 207-767-7635
Fax: 207-767-7636

To: Scott Morelli, City Manager
From: Doug Howard, Director of Public Works
CC:
Subject: Rolando's Redemption Curb Cut
Date: October 31, 2017

Dear City Manager,

The City has been closing curb cuts to meet the City's ordinance during recent projects. The City collaborated with the DOT to do the sidewalks on Main St. as part of the DOT project. Because of the sidewalk work, the curb cut in front of Rolando's Redemption Center was closed to meet the requirements of the ordinance. The redemption center still has two curb cuts to access the property. My recommendation is the widening of the curb cut is not necessary and does not cause any hardships to the redemption center.

Respectfully,

A handwritten signature in black ink, appearing to read "Doug Howard".

Doug Howard
Director of Public Works

City of South Portland
Office of City Manager

Dear Sir,

I would like to request a variance of the curb opening and sidewalk ordinance at 851 Main Street.

The area is marked off at the present time. Since it has been marked off, I have noticed several safety concerns. A customer had to back into Main Street because there is no longer enough room to turn around. I have school busses, box trucks and pickups with trailers bringing in recyclables.

After reading the ordinance, I noticed parking lot depth is not taken into consideration. Witnessing the effects of the planned curb cuts and sidewalk has shown depth should be a factor in placing the curb cuts and sidewalks.

Sincerely;

Donald Cook



Ican Inc dba Rolando's Redemption Center

851 Main Street

772-9225

Curb Cut PRIOR to road construction



Curb Cut AFTER road construction





CITY OF SOUTH PORTLAND

LINDA C. COHEN
Mayor

SCOTT T. MORELLI
City Manager

EMILY F. SCULLY
City Clerk

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

**IN CITY COUNCIL
ORDER #81-17/18**

District One
CLAUDE V. Z. MORGAN

District Two
KATHERINE W. LEWIS

District Three
EBEN C. ROSE

District Four
LINDA C. COHEN

District Five
ADRIAN T. DOWLING

At Large
MAXINE R. BEECHER

At Large
SUSAN J. HENDERSON

WHEREAS, The State of Maine recently completed work on Main Street that added sidewalks in various locations in front of Rolando's Redemption Center, which is located at 851 Main Street; and

WHEREAS, The area in front of Rolando's Redemption Center was wide-open prior to the aforementioned Main Street project; and

WHEREAS, Pursuant to the South Portland Code of Ordinances Sec. 23-35, Donald Cook, on behalf of Rolando's Redemption Center, applied to the Public Works Director for a curb cut to remove these recently installed sidewalks and return the area in front of 851 Main Street to the same, wide-open configuration it had prior to the Main Street project; and

WHEREAS, The Public Works Director denied Mr. Cook's curb cut request as it is located within two hundred feet of an existing street intersection, which is prohibited under the South Portland Code of Ordinances Sec. 23-37(2)(b); and

WHEREAS, Mr. Cook has appealed the decision of the Public Works Director to deny his request for a curb cut and indicated that this limitation would result in a hardship pertaining to vehicle access to Rolando's Redemption Center on Main Street; and

WHEREAS, The City Council may, at its sole discretion, grant such an appeal if they find that the ordinance standard has caused a "hardship" for the applicant; and

WHEREAS, The Public Works Director does not believe that the property owner will experience any adversity by leaving the sidewalks in place; and

WHEREAS, The Police Chief believes that the new configuration with sidewalks is safer for vehicular and pedestrian traffic;

NOW, THEREFORE, pursuant to Code of Ordinances Sec. 23-39, the City Council upholds the decision of the Public Works Director and denies Mr. Cook's request for a curb cut.

Fiscal Note: Less than \$1,000

November 6, 2017