

CITY OF SOUTH PORTLAND

Name of Body: **Planning Board**
Results for Meeting of: **September 27, 2016**
Meeting Begins: **7:30 p.m.**
Meeting Location: **Council Chambers, City Hall**

Members Present

William Laidley, Chairperson
Linda Boudreau
Adrian Dowling
Kevin Carr
Isaac Misiuk
Taylor Neff
Kathleen Phillips

Staff Present

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

RESULTS

Pledge of Allegiance

The meeting began with a PACTS Presentation by John Duncan from 7:00-7:45 p.m.

Chairperson William Laidley opened the meeting at 7:45 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 September 13, 2016, Planning Board minutes.

L. Boudreau motioned to approve the September 13, 2016, Planning Board minutes.

T. Neff seconded; (7-0).

Item #2. Consent Calendar

No Items

Item #3. PUBLIC HEARING – Site Plan Review – Drive-thru Restaurant and Retail Development – 818 Main Street – CRT CII, LLC – FINDINGS

CRT CII, LLC is requesting a site plan and special exception review to redevelop the former Wok Inn restaurant site into drive-thru restaurant and retail space located at 818 Main Street. The proposal is to construct a two-tenant building with a 2,322 SF restaurant space to accommodate a new Dunkin' Donuts and a 1,735 SF retail space. The site is primarily paved with impervious surface for parking. New landscaping will extend by travel ways to a drive-thru queue around the back to the building. The site will also redefine the driveway to align with New York Avenue and the signalized intersection of Main Street. MaineDOT will issue a Traffic Movement Permit (TMP) for the trip generation of 316 AM Peak Hour trips and 108 PM Peak Hour trips. The property is further identified as Assessor's Map 79A, Lot 2B, in the Limited Business District (LB).

L. Boudreau motioned to approve the waiver of Planning Board Regulation #1. (d) and #2, to allow a public hearing prior to receiving all outside agency approvals and to condition the Planning Board approval to restrict all land use activities until the applicant has provided all outside agencies' approvals to the Planning Director.

W. Laidley seconded. Vote (6-1) (I. Misiuk opposed).

L. Boudreau motioned to allow Kathleen Phillips to participate. T. Neff seconded; (6-0) (Phillips abstained).

T. Neff motioned to approve the waiver request of Section 27-1428 (a) Time Limitations for the opportunity to have a one-year approval granted, expiring September 27, 2017; to approve the waiver request of Section 27-1536 (h) (1), to modify the post-construction stormwater management plan to allow the waiver of Section 27-1536(c)(1)(b) and (2)(f) for treating 88% of the disturbed areas and for two occupancy certificates prior to receipt of the engineer's inspection report. The engineering inspection report should be provided to the Code Enforcement Officer prior to or on July 15, 2017; to approve the site plan and special exception application of CRT CII, LLC dated August 5, 2016, through September 20, 2016, and drawings dated December 15, 2015, through September 20, 2016, for a Drive-thru Restaurant and Retail Redevelopment project located at 818 Main Street as follows:

- 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. On or by July 15th of each year, a completed and signed certification shall be provided by each property owner or applicant to the City's Director of Water Resource Protection in a form provided by that department, certifying that a qualified third-party inspection employed by the property owner or applicant has inspected, cleaned and maintained the stormwater management facilities, describing any deficiencies found during inspection of the stormwater management facilities and certifying that the person has repaired any deficiencies in the stormwater management facilities noted.
6. 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.
7. 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.
8. The Planning Board's approval is conditional on the applicant obtaining all necessary DEP approvals, Army Corps, IF&W, and other approvals before the applicant commences any land use activity. If the DEP, Army Corps, IF&W or any other agency imposes any more stringent conditions on the applicant or if the DEP, Army Corps, or other agency's conditions of approval in any way impact the City of South Portland's substantive review criteria, the applicant must be required to return to the South Portland Planning Board for review and approval of an amended site plan.

T. Neff noted that the special exception is for a 5:00 a.m. opening.

K. Phillips seconded; (7-0).

FINDINGS

A. Dowling motioned to accept the findings with Section 3 removed. L. Boudreau seconded; (7-0).

Item #4. PUBLIC HEARING – Final Major Subdivision and Site Review – Riverbrook Properties – 20 Lydia Lane – Riverbrook Properties, LLC – FINDINGS

Riverbrook Properties, LLC is requesting a final major subdivision and site plan review to construct a 118-unit multifamily apartment complex located at 20 Lydia Lane. The property is approximately 6.4 acres in size. Four units will be designed for handicapped accessibility and the complex's parking areas and sidewalks will connect to the mailboxes, trash facility, and open

space. Each unit will have a deck and/or patio on one side of the building. The property is further identified as Assessor's Map 44A, Lot 304, located within the Conditional Residential and Commercial District G-3.

A public hearing legal notice was published in the Portland Press Herald newspaper on September 20 & 26, 2016, and public hearing notices were mailed on September 19, 2016, to the seven property owners within 500 feet of the proposed project, the applicant, the Conservation Commission, the Planning Board, and City Council.

L. Boudreau motioned to approve the waiver request of Section 27-1428 (a), Time limitation for a six-month extension to make substantial construction start, expiring September 27, 2017;

to approve the waiver request of Section 24-26 to allow for a two-phased development of the apartment complex to be completed five years after final approval;

to approve the waiver request of Section 27-1526 (f)(1) to allow for upland vegetated buffer loss of 553 SF and will provide a compensation fee of \$829.50;

to approve the final major subdivision and site plan application of Riverbrook Properties, LLC dated August 12, 2016, through September 20, 2016, and drawings dated June 10, 2016, through September 20, 2016, for the Riverbrook Apartments development located at 20 Lydia Lane, with the following conditions:

- 1. Prior to the release of the recoding mylar and pre-construction meeting with the City, the applicant shall pay all outstanding review escrow account fees, erosion and sedimentation control inspection escrow and post the necessary performance guarantee(s) in such amount(s) as established by the City.**
- 2. Planning Board Regulation #5, standard condition of approval, as read by the Chair at the opening of the meeting.**
- 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 inspector as defined in Section 27-1536 (c)(3)(e) of the South Portland Code of Ordinances, as may be amended.**
- 5. On or by July 15th of each year, a completed and signed certification shall be provided by each property owner or applicant to the City's Director of Water Resource Protection in a form provided by that Department, certifying that a qualified inspection employed by the property owner or applicant has inspected, cleaned and maintained the stormwater management facilities, describing any deficiencies found during inspection of the stormwater management facilities and certifying that the person has repaired any deficiencies in the stormwater management facilities noted.**
- 6. 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.

7. Prior to issuing the first Certificate of Occupancy, the applicant shall provide to the Planning & Development Director a Traffic Impact Fee of \$10,950 for improvements at the Westbrook Street and Western Avenue intersection.

8. Prior to obtaining a Certificate of Occupancy, the applicant will provide \$15,000 to be used by the City for creating a water line extension needed to form a loop in the Brick Hill neighborhood so as to ensure the continued availability of water for fire-fighting purposes in the event of a break in the Brick Hill water line. Said funds to be held in escrow for ten years. If at the end of the ten-year period the water line loop has not be built, the funds shall be returned to the applicant in accordance with South Portland Finance Department policies.

9. *[Not to be on the mylar]* Final approval is subject to amending the mylar plan to show the above conditions of approval on the plan and incorporating all changes voted by the Planning Board at its September 27, 2016, meeting into the plan. Inclusion of such changes shall be reviewed for accuracy and inclusion by the Planning & Development Director, prior to Planning Board signature of the mylar.

K. Carr seconded; (6-0) (I. Misiuk absent).

FINDINGS

K. Carr motioned to accept the findings. **L. Boudreau** seconded; (6-0) (I. Misiuk absent).

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

Russ Lunt, Brigham St., thanked Mr. Haeuser in regard to PACTS.

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

T. Haeuser said the hearing on the first item had its difficulties, but this why a lot of them are involved in this type of work. It suggests that they should think about going back to the routine that they dropped: when they were through with public input they move on to Board questions but didn't close the public hearing. The Public Hearing was left open so if a member of the public had a question, they could ask it. The reason they did this was that it made for happier residents who felt that they could say or ask what they needed to.

W. Laidley asked if this is to tighten the process and make it more orderly.

T. Haeuser said he used to think that once you go through your first round, that was it. At some point at a training with Sally Daggett, they were told they could keep the hearing open and start deliberating.

W. Laidley said it makes for a better dialog, if it is indeed a dialog. **S. Puleo** said it needs to be something additional, something not covered. **T. Haeuser** said this is separate from the public respecting the order of the Board.

T. Neff said it's nice to see written comments.

K. Carr liked the way important themes were extracted as if someone was here.

T. Haeuser said he could do it this because of the way the letter was structured.

L. Boudreau asked if there are hearing devices available.

S. Puleo said yes, upon request. They are in the control room.

The Board discussed how to advertise that hearing devices are available. It is noted by the Chair at the opening of the meeting, but **K. Carr** suggested a footnote on the agenda. **S. Puleo** will add it there as well.

W. Laidley said there wasn't someone on the Board from the Mall area and he appreciates the value of Mr. Dowling's input about his neighborhood.

K. Phillips said she, Mr. Laidley, and Mr. Misiuk went to MAC Air. It is a beautiful facility.

L. Boudreau said it's good to go back and check projects. She looked in Knightville and said how nice it is to see the activity; Foulmouthed has brought in its share. Opening the two-way street made it look like a downtown; you feel like it's a traditional downtown district. Being there, there are lots of cars but there's always parking available. It seems E Street is underutilized because people pass it and look for parking, but that would be one of the closest to Legion Square. Knightville/Mill Creek looks great, busy, lively. On another note, she's unhappy with the South Portland Housing Authority and that so many residents who are smokers are on streets and sidewalks. They have instituted a new no smoking policy on their property. She thinks they need to come to the Board and accommodate the situation.

Item #7. Adjournment

10:15 L. Boudreau motioned to adjourn. K. Phillips seconded; (6-0) (I. Misiuk absent).

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.