

Minutes

May 21, 2015

Comprehensive Plan Implementation Committee

Present:

Craig Piper, Chairman
Councilor Maxine Beecher
Tex Haeuser
Robert Foster
Mark Eyerman
Stephanie Carver, GPCOG
Councilor Claude Morgan
Adrian Dowling
Milan Nevajda
Kathleen Phillips
Libby Reynolds
Jon Jennings
Pat Doucette
Craig Gorris

Absent:

Joe Picoraro
Peter Stanton

Guest:

William Laidley, Planning Board Chair

1. Welcome

Craig Piper welcomed everyone to the meeting. Adrian Dowling introduced himself and Committee members introduced themselves.

Attendees were provided with the agenda, minutes from 3/19/15, and a Final Draft Memo from Mark Eyerman to SP CPIC.

2. Adoption of the Minutes

Maxine Beecher moved to adopt the 3/19/2015 minutes; Bob Foster seconded. Unanimous approval.

3. Report on ULI Presentation

Craig Piper spoke about the ULI (Urban Land Institute) presentation in Boston through ULI's Boston District. He gave an overview of the international organization, noting the interdisciplinary, eclectic mix of members in areas including planning, development, and city planning. Mark added that the ULI has carved out a role in being a research information organization; it provides objective factual information on development, development patterns, case studies, etc. at the national level. Tex, Craig Piper, and Jon Jennings represented South Portland and Jeff Levine and Tuck O'Brien, Portland's Director of Planning and Urban Development and Planning Board Chair respectively, represented Portland. They shared a sales pitch on Greater Portland area and shared the Master Plan for South Portland to a crowd of about 40-45 people, developers and parking consultants.

Jon talked about economic side of development and opportunities available. They were surprised at number of questions—people were very interested in what South Portland is doing, possibly because they presented a specific plan (Portland was more of a general overview of the city). Jon received emails from developers and interested parties and a couple are coming to Portland/South Portland within the month to tour, look at the area, including Mill Creek. Overall, the presentation was well received and it was well worth the effort to go to Boston.

Tex mentioned the satellite ULI committee in Portland; it's part of the Boston District. It's hoped that people who participate in Portland will become members of ULI—it's an opportunity to find out what's going on in Portland with issues like USM and sea level rise. Next week is about affordable housing—an issue for South Portland now as well as Portland. Jon asked if members of ULI Portland get access to Boston events and Tex said ULI Portland is informal. To join, you join Boston. You may get discounts or events are free. Jon mentioned a conference coming up on the potential Olympics in Boston.

Milan asked Jon if the people who contacted him had looked at Portland/South Portland before. Jon responded that one had interest but otherwise hasn't explored it. The other two don't know the area but want to come and explore. They're coming in early June and will spend the morning in Portland and afternoon in South Portland.

Craig P. mentioned that no Finard attendees or anyone else from the area attended the conference. Jon said Finard Board meeting was that day.

4. Final Committee Approval of the Mill Creek Master Plan

Mark noted that Committee members should have received the Final Draft of the Master Plan. To recap the process, the Committee reached out and had two informational feedback meetings in February. Following that, feedback and emails were put together. An overview dated 3/18/15 was made of big picture suggestions for improvements and other smaller things. In the meantime, Tex has been meeting with Parkside residents about their concerns and issues with Pratt Abbott.

Tex noted two issues regarding Parkside: Pratt Abbott contamination and erosion from the creek running behind those properties.

Regarding the contaminator, Tex and Pat went to the DEP this morning. The city had no information that since the early 90's, when there was a spill, that there had been enforcement action from the DEP that doesn't appear to be complete. There was some remediation and sampling done at the site. The latest sampling (2008) still showed elevated levels in some spots (air samples). Since 2008 nothing much has happened; at meetings with the residents, they showed concern about the height of the building, incorporating additional homes, and that Parkside Terrace would be a means of access to a redevelopment site. However, it was recently brought to Tex's attention that the DEP has restrictive covenants on those lots. Also, Pratt Abbott was caught renting their other buildings to people.

Maxine asked why the city didn't know about this. Pat answered that they didn't have any information or inquires about it—nothing on file. When Tex came back from Augusta with a large stack of files, she was dumfounded they had no idea about it.

Claude asked if the covenants were in the registry of deeds and where they are in the remediation process. Tex answered that in 2008, there were slightly elevated levels in the air at once residence in Parkside and in Pratt Abbott. Follow up showed that the levels were below the threshold for the first property. There's no

closure on this issue; he would still be worried that there may still be poison out there. He and Pat went to offer a partnership between the city and DEP for testing, etc., as long as DEP accepted continuing responsibility of enforcing this breaking of state law. He noted that things like this happen when there are plans such as this. They are jumping on it, and it's not a good situation.

The other issue is with erosion and tidal action coming up Mill Creek into the creek area and stormwater coming down, with heavy rainfall with high tide. Tex met with another person from DEP who suggested adding certain types of plants in the area for some erosion control. In his meetings with residents, they were appreciative in the committee having gone back and reducing scale of the building in the Master Plan.

Maxine said that people have been working in the Pratt Abbott building, someone must have said it's safe. Is there an issue with tearing it down/is it a brownfield?

Tex: They would have been eligible if they were selling it to someone.

Jon: They are not eligible for brownfield money; it would be the entity they sold it to because they contributed to the contamination.

Mark noted that the limitation is only on residential use.

Claude: Someone could tear it down and build another dry cleaner?

Mark: Or offices, etc., and the restriction could be removed if someone demonstrated they remediated the site. He gave an example of loads of contaminated soil taken out in Knightville where there was an old dry cleaner and a medical office building was built on top.

Milan: Asked if there was no more contamination added.

Pat: DEP felt Pratt Abbott had changed practice and they're not using the same chemicals or it is very limited. The property owner has to come forward and request that the covenants be lifted. They are just letting the building sit there.

Milan: Is there an estimate on remediation?

Tex: Not that I know of.

Pat: No estimate of cost.

Tex: We're not sure that remediation needs to be done. More testing, yes. It's possible that with time it will come up negative.

Mark continued recapping the committee's process in creating the Master Plan Draft. In March, the committee went partway through list. He briefly recapped the changes made then. Milan and Mark prepared a revised version for the committee's April meeting (that was cancelled). Since then, they've done more tweaking with respect to Pratt Abbott. They've reread, edited, etc. Highlights include:

Page 4, Intro: Added new section (6) about implementation strategy.

Page 9, Vision: Added piece on left hands side, retaining historical resources of area as part of vision.

Page 17: Short Term Actions: Added discussion about idea of back of buildings from bridge approach; the dual desire to make it more attractive and still allow visibility.

Page 19, Mid Term Actions: Added comments about problem with left turn for Erskine, stacking distance is not long enough.

Page 22, Mid Term Actions: Added item to #3 to provide a nod to Mill Creek park.

Page 23, Short Term Actions: Overall zoning for area; added language under Village Extension to talk about the corner of Pratt Abbott—a nod to Parkside residents.

Page 25, Under expanded discussion, did the same thing about a maximum of three stories and residential uses allowed only if prior contamination was remediated onsite.

Page 26, language of six usable stories in core area above floors used for parking: There was concern from public about this being too tall—reduced to five.

Pages 28-29: Did editing to off street and non-residential parking requirements; provision now in ordinance that you can reduce parking but go to Zoning Board of Approval to do so; proposal in #9 to do that administratively. Took out city hall parking. In #12, added language about Waterman Drive that there will be provisions for parking on it as it improves.

Page 33: Talks about areas where redevelopment illustrations were done. Area 4 used to be larger but took two properties out. Changes in many places.

Page 38: Talks about old bank at roundabout, maintaining historic character of it (can build up but it needs to maintain historic character).

Page 46: Did a re-reading, the illustrations were mismatched.

Page 77: Pratt Abbott/Cottage corner: Dealt with Pratt Abbott parcel; took two buildings out of mixed use district, showed three story building with surface parking, commercial on first offices on second.

Craig P. asked, in regard to the image, if a developer wanted to buy all residential homes and was able to make a deal, they would only be allowed to do something on the actual Pratt Abbott lot?

Mark: That's the way it's been rewritten. Now it's LB and allows a range of uses.

Tex: What if they chose Option 2 and went with a plan development flexible approach?

Mark: Then they could talk about those two parcels; we tried to straddle the fence.

Craig P. asked a question for Planning Board members: If someone decided/was able to purchase, came to your group, showed how they were meeting the guidelines, would that be something that's a hard sell or would the Board say that doesn't make sense? Would that be an acceptable path?

Kathy: There would be questions about increased traffic.

Tex: People always have a right to come in with a proposal for a rezone. In this case, they could come in with new zoning and demonstrations about how they're meeting objectives from this plan, and they would have to. They have a higher standard to meet.

Mark: Spoke to a situation he's been involved in Cummings Rd./County Rd. in Westbrook where there were single family homes on one side. When Westbrook proposed rezoning for commercial, the neighbors were against it. The city left them residential and within 10 years, the neighbors got together and came back to the city to ask to be rezoned to commercial. There was no market for their houses being stuck in a developing commercial area. This area could see that same pattern. Maybe fight that battle another day. Neighbors want it to stay that way now; the two parcels on Cottage are in a no-man's land situation now that leaves them where they are.

Mark continued outlining the changes:

Page 80/81: Put together a simple implementation strategy; tried to get key points across.

Appendices A & B are essentially unchanged. In Appendix C, in the outline of revised zoning provisions (page 107), the shaded block was added that describes treatment of Pratt Abbott Corner as carve out of Village Extension area.

Page 112: Included in design standards that would apply to the core area—concepts people raised about promoting internal street networks, shared common parking, public spaces

Milan noted that language was added about remediation in multiple sections and Mark noted that they need to go back and check the spelling of remediation.

Mark said he believes they've made a good faith effort to address concerns.

Claude: Hearing about the perc issue at Pratt Abbott, should we be surprised? Probably not. It seems like that's potentially a huge negative component of our plan. With best efforts, we could come up against a wall. If it were an environmental nightmare, no one would want to touch that. He asked for Tex's take on it.

Tex: Mark can give a broader take. From having pulled the files and reviewed them, we don't know for sure that there's contamination left now—if there is, it may be small. They've done remediation and time has passed.

Mark: The contamination was the result of a single incident spill—not like in Knightville where they put used fluid into the ground for years.

Tex: His impression is that DEP has gotten to a point of law of diminishing returns; at this point they think there's not enough likelihood for finding worrisome levels to justify more air samples.

Maxine and Claude thought that was required.

Tex: They've done several rounds of testing, we were there to tell them they're not done. He doesn't think it's a big problem. What happened wasn't good; it could have affected health of people in that neighborhood. He would be surprised if there's a health issue now. They will work on it.

Claude: Besides health, the value of that property given the unknowns—that's a known spill. You don't know that you won't find more once you start building/demolishing. That could be a turnoff for a buyer, investor.

Jon: Gave the example of Thompson's Point. It was still purchased because of its potential, but oftentimes developers can't get financing for something like that. Developers will take a chance if they're reasonably sure. He would be reasonably confident here, knowing that they could do remediation. Otto's had some remediation; these things happen particularly in industrial sites. Financing is hard part for major contamination.

Tex: The primary goal is not to get properties marketable but to remove concerns by residents. The impression is that, while this isn't good (this will come out in press fairly soon), he doesn't think developers will see this as a cloud over all of Mill Creek. It's specific to that spot.

Maxine: There is money for remediation for those who buy it.

Jon: The city applied for \$400,000 in brownfield assessment money. They should know within next week The money goes to that particular property. If the city created a contaminated the environment it couldn't

be, but can they use it at Pratt Abbott or Getty, etc. They just recently got \$160,000 from GPCOG for remediation for the Armory. There's a match but the developer will be taking care of that. It's a way to leverage.

Claude: Did Otto's receive money?

Jon: No, he did it himself. They didn't cap one of the tanks they took out and it leached a little. It wasn't major concern.

Mark: Thinks most of the development community expects to have to deal with this on any redevelopment site. It's something built into development process at this point. In this case, there's no suspicion that it's a huge problem.

Claude: The question is, should we be surprised that we found perc at something of that scale? Would think that you would.

Mark asked if they still do dry cleaning there. Pat said they do, and Tex said they're switching out machines or use the chemical sparingly. Jon said it's a prime location for redevelopment in the city.

Maxine said neighbors are still concerned about the traffic. Jon replied that to look at the design, there's already traffic there. Now the traffic would be on Broadway. Tex said they decoupled the project from their street. He showed it in the plan.

Jon: Complemented Mark and Milan on their efforts on this. He asked Tex to compare it to Thornton Heights. Tex said it sets a high bar.

Jon: Said he thinks Thornton Heights would have had a greater success of going through if it went through this process.

Craig P.: Agrees and asked if there's a tool or summary sheet, as a reviewer, something like a checklist?

The group discussed possibilities. Craig clarified that he's thinking more for the city's side as they're considering accepting it. Is this the criteria that we'll be looking at? They will have the whole document but these are the specific items you should meet? Or is that the job of applicant?

Mark: This is only part 1. Part 2 is if Council says yes, we come back and do ordinance amendments that include specifics of what criteria one would have to meet and what the process would be to do it. This simply creates the framework. If the Council says yes, the next job is creating those requirements and standards.

Maxine: When we go before public, council, Planning Board, etc., we should acknowledge what we heard from the public. Even if it's in general, if there were specific things we did, they should be outlined to make sure that the people know they were heard and that changes were made (and if not, why, etc).

Mark: That's an excellent suggestion. He suggests collectively he and Tex, if the committee moves this forward, will take the two previous memos and outline what the committee did to address those concerns.

Maxine: Commended the great work.

Maxine moved that the Comprehensive Plan Implementation Committee approve, and recommend City Council adoption of, the final draft of the South Portland Mill Creek Master Plan 2015, with revisions through May 21, 2015, due to its conformance with the South Portland Comprehensive Plan Update 2012, and in particular based on the fact that:

1. The Comprehensive Plan recommends that a detailed study of Mill Creek be undertaken to develop a strategy and zoning recommendations for the redevelopment of the area, which the Mill Creek Master Plan does.
2. The Comprehensive Plan recommends that the City work to improve the ability of pedestrians to move around Knightville Mill Creek and cross Broadway, and the Master Plan addresses this concern and identifies specific improvements.
3. The Comprehensive Plan calls for the City to continue working to improve the infrastructure in the neighborhood, especially elements of the streetscape, and the Master Plan addresses this and identifies a number of specific actions.
4. The basic direction of the land use proposals are consistent with the Broad Vision for the neighborhood set out in the Comprehensive Plan and refine the land use concepts laid out in the Plan.

Bob Foster seconded; 10-0-1 (Councilor Morgan abstained).

5. Schedule for Planning Board and Council Meetings

Tex outlined the schedules for Planning Board and Council meetings. The Master Plan will be presented at the Planning Board meeting on June 9th. Tex would like Committee members to attend. There's no procedure in South Portland ordinance to adopting plans, so he's treating it like zoning recommendation. It's not being put into the Comprehensive Plan right now; the Planning Board will make a recommendation to City Council.

There's a City Council Workshop on June 22nd. This is a very important meeting. There only needs one hearing to adopt it because it's not zoning.

He asked if the committee should take the summer off like they have in the past. He noted that they have to get going on zoning. The meeting on June 18th isn't necessary unless something happens with Planning Board; Tex asked members to keep the meeting on their calendars but know that it will likely be cancelled.

William: Asked for a head's up for Planning Board since this is 100+ pages.

Maxine: Asked for suggestions on how they the Planning Board preps? Should they have hard copies?

William: If they want a hard copy it's on them to request one.

Tex said he would make hard copies; the Board agreed it's easier to see off screen.

Tex said he would send notice to those on his notification list and will put an ad in the local paper. He asked the committee if that is sufficient.

Mark: Noted they have a few people who came to workshop who may not be on list.

Craig G.: Are there groups that would be opposed in South Portland?

Maxine: The Knightville/Mill Creek Neighborhood Association.

Jon: They are reformulating. The Waterfront Market Association knows; they had meeting last week.

6. Comments from the Public

None

7. Round Robin

Jon: Has a conference call with Hannaford about the solar farm in the landfill on Tuesday. This is potentially a very good thing for city. The Armory is progressing and should be operational by the end of the year.

Tex: Thanked everyone for coming to these meetings and for their work.

Mark: Commented on the due diligence of public agencies involved with property acquisitions and noted what's happened with the new USM president. He also spoke to Claude's point about not knowing about a problem until a project has begun.

Claude: In regard to Pratt Abbott, it's a sad indictment that we find out that something of this magnitude took place this much later. The idea that we would find this out through a deed search is bizarre. It's an outdated form of notification.

Maxine: It was a great meeting; it was nice having Bill here.

Adrian: If anyone has questions/concerns about airplane noise, on Thursday, May 28th, at 6:30 in Council Chambers, there's an informational meeting with airport staff to explain that they're doing to reduce noise in South Portland. It will also be on SPC-TV.

William: Asked to add Barbara Sikos and Caroline Hendry to Tex's notification list, if they're not already.

Craig: Thanks to Mark, Milan, and Tex. He learned a lot in the process.

Maxine: Thank you for those who attended the ULI conference.

8. Adjournment

Craig Piper motioned to adjourn; Maxine Beecher seconded. Unanimous approval.