

CITY OF SOUTH PORTLAND

Name of Body: Planning Board
Results for Meeting of: December 13, 2016
Meeting Begins: 7:00 p.m.
Meeting Location: Council Chambers, City Hall

Members Present

William Laidley, Chairperson
Linda Boudreau
Adrian Dowling
Taylor Neff

Staff Present

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

Absent

Kevin Carr
Kathleen Phillips
Isaac Misiuk

RESULTS

Pledge of Allegiance

Chairperson William Laidley opened the meeting at 7:00 p.m. and welcomed all in attendance. He reviewed the meeting’s agenda and reminded the audience and Board of policies regarding a Planning Board Meeting and Public Hearings. He read into the record Planning Board Regulation #5, standard condition of approval: This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. No project, plan or development previously approved by the Planning Board may be altered or modified without securing prior approval of the Planning Board in the form of an amended approval; provided however, that, if at any time it becomes necessary or desirable to make modifications to the project, plan or development, the Planning Director may approve modifications determined by the Planning Director to be de minimis in that they (i) do not amount to a waiver or substantial alteration of any condition or requirement set by the Planning Board; (ii) do not affect any approval standard; (iii) meet all applicable ordinances and laws; (iv) are reviewed and approved by all appropriate City staff and consultants; and (v) do not involve any changes to lot lines. De minimis changes include only the modifications listed in Section 24-27 of the Subdivision Ordinance and Section 27-140 of the Zoning Ordinance.

Item #1. Approval of the November 15, 2016, Planning Board minutes

**A. Dowling motioned to approve the November 15, 2016, Planning Board minutes.
L. Boudreau seconded; (4-0) (K. Phillips, K. Carr, I. Misiuk absent).**

Item #2A. Consent Calendar – Release of Development Performance Guarantees – MAC Jet (GAF), 775 Westbrook Street; STRIVE, 28 Foden Road

A. Dowling motioned to approve the total release of the \$3,500.00 public improvements and \$9,500.00 erosion control performance guarantees for the projects listed above. T. Neff seconded; (4-0) (K. Phillips, K. Carr, I. Misiuk absent).

Item #2B. Consent Calendar – Subdivision Reclassification – Congregate Housing Individual Ownership Facility – 14 E Street – Specialized Housing, Inc. (SHI) SP 2016 House Associates, LLC – FINDINGS

T. Neff motioned to approve the request of Specialized Housing, Inc. (SHI) SP 2016 House Associates, LLC, dated December 2, 2016, to reclassify the proposed congregate housing individual unit ownership facility to be located 14 E Street as a minor subdivision, based on the Planning Board determining that the reclassification is not inconsistent with the purpose of Chapter 24 Subdivision ordinance which is to protect the public's interest. A. Dowling seconded; (4-0) (K. Phillips, K. Carr, I. Misiuk absent).

FINDINGS

T. Neff motioned to accept the findings. W. Laidley seconded (4-0); (K. Phillips, K. Carr, I. Misiuk absent).

Item #3. PUBLIC HEARING – Zoning Text Amenndent Request – Benchmarking – City of South Portland

The City of South Portland's Planning & Development department is requesting a land use recommendation to the City Council to amend Chapter 27 Zoning to consider proposed amendments to the Zoning Ordinance related to energy and water use benchmarking.

Legal advertisements regarding this request appeared in the Portland Press Herald on November 29 and December 5, 2016. Notices were also posted at City Hall, the Public Libraries, and on the City's webpage. In addition, an article about the Planning Board hearing was included in the December 2, 2016 Community e-Newsletter and was part of the agenda for an information meeting for Mill Creek property owners held on December 9th.

A. Dowling motioned that the Planning Board send a favorable recommendation be made to the City Council on the proposed Energy & Water Use Benchmarking zoning text amendments based on conformity with the City's Comprehensive Plan, Climate Action Plan, and Mill Creek Master Plan. T. Neff seconded; (2-2) (W. Laidley, L. Boudreau opposed) (K. Phillips, K. Carr, I. Misiuk absent).

Item #4. PUBLIC HEARING – Zoning Text Amendment – Zoning Text Amendment to the Village Residential District (VR) – 14 E Street – Specialized Housing, Inc. (SHI) SP 2016 House Associates, LLC

Special Housing, Inc. (SHI) SP 2016 House Associates, LLC is requesting a land use recommendation from the Planning Board to the City Council to amend Chapter 27 Zoning to consider proposed amendments to Section 27-579 of the Zoning Ordinance relating to adding the language, "congregate housing individual unit ownership facility," to the end of the provision. SHI SP 2016 House Associates, LLC is the owner of 14 E Street, in which they are proposing to redevelop the single-family lot into a ten-unit private apartment "congregate housing individual unit ownership facility." The Planning Board will make a recommendation to the City Council regarding the proposed amendment.

Legal advertisements regarding this request appeared in the Portland Press Herald on November 29 and December 5, 2016. Public notices were mailed to 85 property owners in Village Residential (VR) District on November 28, 2016. A notice was posted at City Hall, the public libraries, and the City's webpage on November 28, 2016.

L. Boudreau motioned to recommend to the City Council approval of Zoning Text Amendment to Article IV Village Residential District (VR) Ordinance Section 27-579 Conversion of existing structure provisions, based on the consistency with the South Portland Comprehensive Plan. T. Neff seconded (4-0) (K. Phillips, K. Carr, I. Misiuk absent).

Item #5. PUBLIC HEARING – Zoning Text Amendment – Amendment to Chapter 27 Zoning Ordinance Enacting a Moratorium on Land-Use Permitting and Development of Retail Marijuana Establishments and Marijuana Social Clubs – City of South Portland

South Portland City Council is requesting a Planning Board land recommendation regarding a proposed amendment to the Zoning Ordinance enacting a moratorium on land-use permitting and development of retail marijuana establishments and marijuana social clubs. Pursuant to Ordinance Section 27-115(g), the Planning Board will, after the close of the public hearing, make a recommendation to the City Council regarding the proposed amendment. The City Council will then act on the proposed amendment.

Legal advertisements regarding this request appeared in the Portland Press Herald on November 29 and December 5, 2016. A notice was posted at City Hall, the public libraries, and on the City's webpage on November 28, 2016.

L. Boudreau motioned to recommend to the City Council approval of the zoning text amendment to Chapter 27 to add Article XVI Moratorium on Land-Use Permitting and Development of Retail Marijuana Establishments and Marijuana Social Clubs in South Portland. A. Dowling seconded.

Vote 4-0 (K. Phillips, K. Carr, I. Misiuk absent).

Item #6. PUBLIC HEARING – Amended Site Plan Review – CaxMax Auto SuperStore – 415 Maine Mall Road – CarMax Auto Superstore Inc. – FINDINGS

CarMax Auto Superstore Inc. is requesting an amendment to a previously approved site plan and special exception approval to construct a 6,876 SF CarMax automobile sales facility located at 415 Maine Mall Road. The applicant did not move forward with the construction of the project but pre-load the site in preparation of the development. The applicant reconsidered the size of the building and reduced the footprint from 18,561 SF to 6,876 SF. The site was the former sites of the Maine Mall Cinema, Pizza Hut, IHOP restaurant, and other commercial uses. The previous existing buildings have been demolished. The applicant is proposing to treat the stormwater generated from the improved site with the same Best Management Practices (BMPs) from the March and May 2015 approvals. These BMPs will include curbing and catchbasins, sub-surface detention facilities, and sand filters for water quality treatment. The property is further identified in mention is Assessor's Map 74, Lot 9, located within the Central and Regional Commercial District (CCR).

Public hearing notices were mailed on December 2, 2016, to the 11 property owners within 500 feet of the proposed project, the applicant, and sent via email to the Conservation Commission, Planning Board, and City Council.

L. Boudreau motioned to approve the waiver request of Section 27-1428 (a) for a 18-month approval period expiring June 13, 2018;

to approve the waiver request of Section 27-1526 (e)(1) for vegetative upland buffer loss of 88 SF and the waiver request of Section 27-1526 (f) Compensation fee in lieu of the reconfiguration and reestablishment of approximately 8,300 SF of vegetative buffer along the southwestern property boundary;

to approve the amended site plan and special exception application of CarMax Auto Superstore Inc. dated October 14, 2016, through December 2016, and drawings dated September 22, 2016, through December 2, 2016, for the development of a CaxMax Auto SuperStore located at 415 Maine Mall Road 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 scheduling a pre-construction meeting with the City, 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, and pay all impact fees as required 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 issuing a certificate of occupancy, the applicant will provide to the Director of Planning and Development the required Traffic Impact Fee of \$1,200.00 for the improvements to the Western Avenue and Westbrook Street signalized intersection and

\$450.00 for future improvements to the John Roberts Road and Philbrook Avenue intersection.

T. Neff seconded; (4-0) (K. Phillips, K. Carr, I. Misiuk absent).

FINDINGS

T. Neff motioned to accept the findings. L. Boudreau seconded; (4-0) (K. Phillips, K. Carr, I. Misiuk absent).

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

None

Item #8. Comments from the Planning Board and Planning Director

A. Dowling asked if this is the only December meeting. **S. Puleo** said yes. **A. Dowling** wished everyone a Merry Christmas and Happy New Year. He spoke about Councilor Fox; his open heart surgery was this afternoon and it went well. He wishes him all the best and hopes for a speedy recovery.

W. Laidley is disappointed in the Housing Committee for not grabbing the third rail of housing. He doesn't think they'll ever really do anything without looking at rent control.

L. Boudreau thinks it was a hard discussion with City Council. They could debate the merits of what they have and haven't done. It's a complicated issue. It's sad to see people put out of housing or see it so expensive. She also fears landlords won't improve their properties if they can't raise their rents. A lot of housing stock is old and needs improvement. She sees legitimacy on both sides of the situation.

T. Haeuser said the Council authorized the Committee to become more official and for a mission statement to be created. They hope in the course of crafting the statement, they will get clearer direction. It would appear that some of what's described is reflected in differences among the Councilors. The Committee hasn't had terribly clear direction at this point.

W. Laidley is sorry Mr. Dowling isn't on the Committee anymore. **A. Dowling** said it's been frustrating because he's thought of different ideas. They have to think of creative ways to address the problem.

T. Haeuser said the Council would be happy to have other people come forward.

W. Laidley asked about O'Neil Street. **T. Haeuser** said there's a meeting tomorrow on starting to nail down the process for a committee. People have expressed interest.

L. Boudreau said they are pouring foundation in Brick Hill and she hopes they will be on board quickly. **W. Laidley** said they're building on Running Hill Road as well.

Item #9. Election of the Planning Board Chair

L. Boudreau motioned to nominate Kevin Carr as Planning Board Chair.

L. Boudreau thanked Mr. Laidley for his service. She spoke with Mr. Carr so he's not surprised; she thinks he would be an excellent Chair. He's always very thoughtful and is good at recapturing what they've said and catching them when they get "lost in the weeds." He has also experience as Chair of a School Board before.

W. Laidley seconded the nomination.

A. Dowling thinks Mr. Carr is a great choice. He's steady and even-keeled. He picks up on things others wouldn't catch. He also thanked Mr. Laidley for his service.

Vote 4-0 (K. Phillips, K. Carr, I. Misiuk absent).

Item #10. Adjournment

9:50 L. Boudreau motioned to adjourn. W. Laidley seconded; (4-0) (K. Phillips, K. Carr, 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.