

CITY OF SOUTH PORTLAND

Name of Body: **Planning Board**
Minutes 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

MINUTES

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 noted that “she” should be replaced by “he” in two places in the opening paragraph.

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.

L. Boudreau said that the TMP application was submitted on July 27 and again on August 29 they held a scoping meeting. She asked if this is a normal time process or if it is early to be on an agenda. This is Route 1 and MDOT would definitely be involved and it seems like two months isn't a lot of time to expect anything from them.

T. Haeuser said DOT moves faster than the Department of Environmental Protection. He's not sure it's atypical for a timeframe. They had the scoping meeting, there were some ideas that were discussed including by the District 1 DOT traffic engineer. It's a question tonight about what they can hear from the applicant relative to the traffic and their conversations with DOT.

L. Boudreau asked if he was at the scoping meeting. **T. Haeuser** said yes.

L. Boudreau asked if they can they expect anything from the approval that would influence how they're talking tonight. Will there be insights?

T. Haeuser doesn't think it will affect the site development at all. There were possibilities for adjusting lane configurations for this stretch that could relate to neighborhood concerns getting onto Main St. with queuing behind the traffic signal due to cars wanting to get into Dunkin Donuts. They don't think it will affect the site plan or lead to any kind of denial of the permit by DOT, but it could lead to something different than what they see today for the lane configurations. He's hoping to hear more from the applicant tonight. He wanted to double check with Mr. Puleo for potential with what DOT comes up with affecting entrances to the site or site design.

S. Puleo said no, he agrees with Mr. Haeuser's assessment.

L. Boudreau said making payments for Route 1 and those changes, she knows there is money contributed to the intersection in Brick Hill.

T. Haeuser said anything DOT asks for would be coming from the applicant.

L. Boudreau confirmed that they will ask the applicant directly and the Board doesn't have to direct money towards lane changes.

T. Haeuser said yes. They have already asked for an offsite improvement relative to the pedestrian signal and sidewalk on the other side of the street.

Vote (6-1) (I. Misiuk opposed).

K. Phillips disclosed that she has prior real estate relations with the owners of the Wok Inn. She doesn't currently represent them.

L. Boudreau asked who owns the property now. **K. Phillips** said as far as she knows, it is the owners of the Wok Inn.

The Board didn't see any issues with this. **T. Haeuser** suggested they make it official with a vote.

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

T. Haeuser introduced the item and showed the location on the map. He showed a picture of the site plan.

The applicant hired a traffic consulting firm that the proposed restaurant and retail redevelopment will generate total of 316 AM Peak Hour and 108 PM Peak Hour trips. The daily traffic generation for the site is projected be a total of 1,980 vehicle trips. The applicant has estimated that the former Wok Inn restaurant generated 81 PM Peak Hour and 550 weekday vehicle trips. It does require a TMP from MDOT.

The applicant has not provided any communication from Portland Water District (PWD) regarding approval to serve the redeveloped project. PWD is changing a policy about providing such letters prior to projects being approved.

The existing site is approximately 1.04 acres of impervious cover and the proposal will result in reduction 0.24 acres of impervious area. The post-development site will result in a total 0.84 acres of total impervious cover or 70.6%. The applicant has proposed a stormwater management system meeting the City's Post-Construction Stormwater Management Plan standards. The applicant stated that the Maine Department of Environmental Protection (MDEP) has determined that the project is not required to meet the Chapter 500 Stormwater for an Urban

Impaired Watershed Standards. Therefore, the applicant has designed a system to provide treatment of the first 0.5 inches of runoff from 90% of the site impervious area and first 0.2 inches of runoff from the disturbed areas. The design uses two underdrained soil filter detention basins. Another outstanding item is the signoff from the Director of Water Resource Protection for discharging into the City's system.

The applicant is proposing to provide an increase in upland vegetated buffer and compensation fee of approximately 400 SF of upland buffer loss.

He reviewed financial capacity. He noted that they look to open at 5 A.M. This is allowed by zoning as a special exception. The Board will need to make mention of allowing this if they wish. He asked the applicant to address the last waiver for treating 88% of the disturbed areas and for two occupancy certificates prior to receipt of the engineer's inspection report.

After the applicant has spoken, **T. Haeuser** has two communications from residents for public input.

PUBLIC HEARING OPEN

Scott Braley, Plymouth Engineering, addressed the plan on the screen. The site will be a relocation of the current operation at Main St. The applicant looks at this site as an opportunity for commercial development close to the interstate. It is also a much larger site and allows them to do several things: to get 15 cars queued without affecting traffic, to have more parking, and to have a site that is more than just a paved, boxed area. They are reducing the impervious area by about 20%. This will allow the site to become more welcoming.

In regard to traffic, there are currently two curb cuts. The one on the east is closest to the light and is being closed off. They are adding screening and landscaping. They will pull out the sidewalk and put a new one in here as well. Separating this site from the next is a curb on the east side; they will add landscaping to separate and create green space. This is also going to improve the site dramatically.

Regarding stormwater, there is currently nothing but water running off the pavement. The underdrain soil filters are designed to meet the quality requirements and also hold back water so they will discharge less than what happens now.

Regarding traffic, the lane lines on the picture are what is recommended to the DOT. There is still discussion but from their scoping meeting, they have had no issues from DOT. It is a matter of how the lanes will be painted to best make traffic flow through and be able to turn left from the interstate side, and for people getting out from the left and New York Ave.

There were issues regarding outside agencies: DOT will be spoken about, but they are far along in this process. This project needs the DEP Stormwater Permit, a permit by rule. They understood, in regard to 88% treatment of landscaped area, since this is flat they will capture everything they can. Because they have a DEP permit coming, they are able to look at their standards and the City's and use either.

S. Puleo said the DEP permit is a permit by rule under the Maine General Construction Permit. What DEP is doing with redevelopment sites is there's already an impact and the improvements are credited for the additional treatment they are providing relative to what exists today. They are meeting the first part, Chapter 500 Stormwater Management Permit criteria. They are not having to get a site location or stormwater permit, they are meeting that section of the Maine General Construction Permit criteria. They are providing more treatment than what DEP expected them to do under their rules.

S. Braley said they received PWD approval today and it's been emailed to Mr. Puleo. For Water Resources, they have been in correspondence since mid-July. They went between two or three people and just submitted the paperwork as they wanted presented. They haven't heard anything negative but are still waiting. Flows will not be in excess of what was coming out of the Wok Inn site. These are finishing kitchens, not full production, and flows are much less. It will be similar to that of a three-bedroom house.

Diane Morabito, Maine Traffic Resources, said they submitted Sections 1-6 of the application in July and had a scoping meeting in August. It was determined that their area is just the signalized intersection at New York Ave. It is limited because these are not primarily new trips to the street. Beyond this, they do not have much impact. At the meeting, DOT asked them to look at this intersection and how it operates. They were asked to look at two lane configurations, one of which the configuration stayed the same. In their study, operations were better if the configuration remains the way it is now. Tim Soucy thought he may like the new configuration better and he will further evaluate. They expect him to look at this in October and expect a draft permit sometime in October.

W. Laidley asked how many trips are between 5:00 and 6:00 a.m.

Greg Nolan, applicant, said typically the peak hours are 7:00-9:00 a.m. Early morning is significantly less, closer to 50-60 trips.

Robert Ferrante, 815 and 817 Main St., has owned the properties since 1981. He owned 0 Main St. but was contacted and told it had to be renumbered to either 817 Main St. or 5 New York Ave. He decided on 817. Going on New York Ave., this light won't be a problem for him. Going right or left, will they have to take part of his property to widen or narrow. He is concerned about his properties being devalued. His property is already devalued from the back. He is also wondering how late they will be open. He is concerned about lighting. His bedrooms are in the front and by 9:00 or 10:00 p.m., the Wok Inn was closed. He thinks the landscaping will be nice and wondered where the patios will be. On August 13, 2015, there was a rain storm where he got water in his basement. He called the Fire Department and they pumped the water out but it came back in. The drainage problem has made the property next to the Wok Inn not sell.

Russ Lunt, Brigham St., supports the project. He's glad to see they looked at this property.

Ross Little, 26 Day St., Chair of Economic Development Committee, said there are things to be worked out. This is an example of an ugly site that is being improved and an example of

business development that is good for the City. It's an improvement and so often business development gets a bad eye. This is a shining example of how the City and tax base has improved. He hopes everything can be worked out.

PUBLIC HEARING CLOSED

T. Haeuser read a letter from Richard and Kathleen Reid sent to his department and the Department of Transportation. They object because the drive-thru is directly across from a well-established neighborhood. Their driveway is on Pennsylvania Ave. and there are times it is impossible to turn left onto Main. Driving from Scarborough to South Portland, there is a corner by Portland Volvo that people speed on. They picture tractor trailers parked on Route 1 becoming a hazard. It is challenging to turn left onto Pennsylvania Ave. due to existing traffic. More traffic would be worse. They will never be able to have their windows open because of drive-thru noise and pollution. The current location has no homes across from it. The letter they received states weekday trips but does not include weekends. They believe a drive-thru is not appropriate.

He also read an email from Melodie Foster, 26 New York Ave. She has no objection to the proposal itself but noted problems of drug dealers and prostitution at the current Dunkin Donuts in Thornton Heights. They have always felt safe living here and are afraid these activities will follow to the new location. They want to keep a safe quality of life.

T. Haeuser said he could go through each point raised and ask the applicant to respond.

W. Laidley asked for Mr. Ferrante's questions to be answered as well.

T. Haeuser asked to what extent they have looked at trips from the side streets onto Main and what affect they've seen.

D. Morabito said the study area was only the intersection of New York Ave. They are adding very little new trips beyond this intersection. 70% of the trips are pass-by. The number of new trips is 10 or 12 in a direction, split between two lanes. New trips are minimal. From the analysis from New York Ave., queue lengths and levels of service don't change.

T. Haeuser asked if they expect queue lengths to change and how much.

D. Morabito said no. The change for Main St. AM Peak Hour the average queue length northbound is 69 feet and it remains under both alternatives. South by Main St. goes from 68 feet to 83 feet, or less than one car length. For 95% percentile queue lengths, northbound Main doesn't change. Southbound will go from 102 to 127 feet. This is one more car in the queue.

W. Laidley asked what the letter ratings are for intersections: Pennsylvania, Massachusetts, and New York Avenues.

D. Morabito said they only studied New York. The overall letter rating is A and will remain with the project. Individual movements are A through C and will remain at those levels. During

PM peak, overall is A and will remain under full buildout. With no movement, level of service C. These are all good levels of service.

T. Haeuser asked about tractor trailers on Route 1.

D. Morabito said she's not sure, but there is room onsite.

G. Nolan said the existing location is a tight site. The drive-thru stack is terrible and there is no place for a truck. They now have a location for trucks. Deliveries are once a week and are about 15 minutes during off peak, early to mid-afternoon.

T. Haeuser asked them to address getting onto Main St. and getting into the neighborhood from Main. There would be more people coming towards you turning left onto Pennsylvania Ave.

D. Morabito said there will be a small change in the number of vehicles.

T. Haeuser asked them to address the concern about noise from drive-thru and the inability to open windows because of noise and fumes.

S. Braley said looking at the site plan and queued cars, the fifth car in line is at the yellow bar, which is the menu and the speaker box. This is pointing away from Main St. With new technology for the boxes, they are finely controlled. Considering the peak times, no one will hear from across the street.

T. Haeuser asked them to address weekend trips.

D. Morabito said there are generally less and they are more staggered. Traffic engineers don't typically study this because the biggest impact is during weekday AM or PM commutes.

T. Haeuser asked about illegal activities that allegedly happen at the existing store.

G. Nolan said he works with the local police when there are issues. As a business owner, the last thing he wants is illegal activity. He's not aware of the particular comments but if it is an issue, he would address it immediately.

T. Haeuser asked for thoughts on the potential devaluation for taking or narrowing of Main St.

S. Braley said based on what they understand from DOT, it will be strictly striping. There will be no taking on either side of the road.

T. Haeuser said there is supposed to be a DOT paving project at some point.

S. Braley said it was bid this summer and came in in excess. They are reevaluating. This is not within his design scope.

T. Haeuser is wondering if the communication from DOT went to Mr. Ferrante. He suggests getting in touch with the DOT district engineer.

S. Braley thought it was just an overlay. They spoke to the designer and project manager of the project on Route 1.

T. Haeuser asked about hours in the evening.

S. Braley said it will be 5:00 a.m. to midnight. Midnight traffic will be light.

T. Haeuser said it will be a special exception at both ends. **S. Puleo** said the permit is until 1:00 a.m. **S. Braley** said the existing store is open 24/7.

T. Haeuser asked about lighting.

S. Braley said they are very careful. They have restricted the lights to 16-foot polls, full cutoff and shielded. Light splash off the site is minimal.

L. Boudreau asked if the lights will have trees in front as seen in the plan.

S. Braley said the street side is low shrubs to block headlights from their site across the street but short enough to have visual exposure. All blue dots on the picture are new polls.

T. Haeuser asked about water in the area.

S. Braley said the system they designed meets quality standards and is designed to connect to the City's system so that there is less peak flow leaving the site than what happens currently. There will not be a basement.

T. Haeuser asked if this will be a good development in the gateway to our City.

S. Braley said this is a great spot.

L. Boudreau asked about the patio.

S. Braley said part of the new development model has green space in the front, between the entrance to the retail store. There's a bike rack and a small seating area with a couple of outdoor tables.

K. Carr asked where the lighting for the patio is. **S. Braley** said they're building mounted.

K. Carr asked about snow storage onsite.

S. Braley said it's tight. He showed this on the plan.

K. Carr asked if it's permeable and **S. Braley** said it's on grass.

K. Carr asked about the queue line. There are 15-16 spaces and he's concerned about the other end. Coming out of the drive-thru to the intersection, leaving, how many vehicles can stack waiting at the signal?

D. Morabito said the 95% percentile queue is 80 feet and the average is only 21 feet. The biggest will be four cars for maybe 15 minutes of the peak hour. The average queue is just one car.

K. Carr asked if there is sufficient swing room. **D. Morabito** said there are dual exit lanes and is plenty wide.

W. Laidley happy to hear about the bike rack.

L. Boudreau said she is happy that they closed one entrance. She thinks it's a good move, beneficial to the roadway and neighborhood. She is impressed with the redevelopment; it is cleaning up a very barren site. It will be attractive. Dunkin Donuts does a nice job with their locations. She cannot think of a reason to consider worse than the one on Broadway, and it works. Even with all of the traffic congestion, people are able to get in and out. It seems to work better than it should. She thinks this is a great location and is pleased with the landscaping and lessening stormwater impacts. There is good traffic management. As for hours of operation, there is not a lot of traffic at 5:30/6:00 a.m. She doesn't see a big impact or problem with the 5:00 a.m. opening.

R. Ferrante asked if he could have another question. He is wondering about the types of trees planted. If they're not evergreen, the leaves will drop.

W. Laidley said the public hearing is closed but told him he could send an e-mail or letter.

G. Nolan said the lighting onsite is shielded and down casted. The trees are evergreen. As for devaluation of the property, there are a lot of uses allowed here. There was a full-service Chinese restaurant with all day activity. They have peak hours and don't have that type of activity. They own and operate their own property and take care of it. He thinks he will improve the property value.

W. Laidley called for a 10 minute recess.

I. Misiuk thinks it will be an improvement from what is there now. He has no issues with it being open at 5:00 a.m. He feels the pass-by traffic seems low for the change of location. Otherwise, he thinks it is great.

A. Dowling said the applicant is referred to as CRT CII, LLC, JFJ Holdings, LLC, and also a management company and wondered why.

G. Nolan said they have different entities. Under contract is JFJ Holdings, CRT will own the land. It's all under the same umbrella.

A. Dowling asked about the Reid's email. They had a concern about tractor trailers on Route 1. He thinks they may wonder about non-Dunkin Donuts delivery trucks on Route 1 when drivers go into the restaurant. Is there an issue with those parking on this stretch Route 1?

T. Haeuser said he doesn't think there is room to pull over here. They are in a lane. He showed this on the map.

A. Dowling asked if there is sidewalk. **S. Puleo** said yes. They could get onsite and use the location for the delivery truck. The site is designed to handle a large turning radius. There is no requirement that they can't get into the site if they want to. The setup in Thornton Heights is a little different.

G. Nolan said they don't encourage parking on Route 1. It doesn't happen often. If they don't have a delivery, they could park on the site.

S. Puleo asked if they would allow it. **G. Nolan** said yes, they would encourage it.

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

S. Puleo mentioned a typo: Section 3 is from an old application, he will correct this but he has rewritten what is needed. Section 3 can be disregarded.

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.

T. Haeuser introduced the item and showed the location on a map. The applicant is here for the final major subdivision and site plan approval. The Board granted an approval to develop lot #4 of Brick Hill with an office building in 2007. Years later, the property owner proposed to obtain a subdivision approval to develop a 118-unit apartment complex. At the April 12, 2016, Planning Board meeting, the applicant requested a land-use recommendation to the City Council to amend the conditional use to the G3 zone to allow for an additional 35 dwelling units within the Brick Hill subdivision, some minor amendments for consistency within the zone, and a change of the G3 zone parking standards. City Council has approved the zoning text amendments allowing for increased density within the conditional use zone. There was a Planning Board workshop on July 12, 2016, and the Board granted their request on August 9, 2016.

Most recently, the applicant met with the City's Fire and Police Chiefs and Community Planner to discuss driveways and the emergency access way. The applicant agreed to improve the access drive to meet the turning radii the Fire Department's large truck, increased width of one access driveway to the development, the addition of a new emergency access way, and to expand the parking facilities next the one of the building next to the service road.

Traffic has been governed by a TMP for the subdivision. The number of trips will be reduced from the previously approved office building to the apartments. The applicant must pay to the City \$150 per number of PM peak hour trips. The applicant has agreed to provide \$10,950 for the signal improvements to the Westbrook St./Western Ave. intersection. They will meet the City's parking requirements. The applicant is proposing to extend a five-foot walkway and eight-foot esplanade from the Opportunity Alliance property to Brick Hill Ave. The applicant is proposing to connect the walkway with a network of walkways leading to each new apartment building.

He reviewed utilities and stormwater. The entire subdivision was permitted as a whole stormwater management system. Each individual lot has been developed and maintains their own stormwater management facility which connects to the Brick Hill subdivision. The applicant's design is to capture each building's foundation drain and runoff into catch basins and the parking lot areas into a series of subsurface facilities, piping the stormwater runoff to a rain garden located on the northwest corner of the parcel. The site will be graded to convey the stormwater runoff into existing drainage swales on the southwesterly side of the parcel. There is a small upland buffer impact resulting in a fee of \$829.50.

The Fire Department raised concern about water redundancy for firefighting purposes in the event of a break in the Brick Hill water line. He showed where the water line will go in and the extension. City administration feels this is a shared responsibility. They will work with Portland to go over a cost sharing arrangement to get the extension built. The applicant has been requested to contribute \$15,000 towards this.

I. Misiuk asked to be excused.

PUBLIC HEARING OPEN

Kevin Bunker, Riverbrook Properties LLC, introduced himself and explained that they made changes based on feedback from the Board and staff.

Pat Carroll, Carroll Associates, introduced himself and explained the changes. There have been modifications based on a meeting with the Deputy Fire Chief, Police Chief, and Planning staff.

They came up with two access points to the upper parking lot. One will be gated as an emergency access point; the Fire Chief wanted to be able to bring a vehicle in here. He showed this on a picture. His concern was getting vehicles in and out and not blocking people from exiting.

They have widened another entry point to provide two 12-foot lanes plus and eight-foot mountable island between them. He showed this location.

In their reconfiguration of parking to allow for emergency access, they looked at turning movements and have expanded parking into another area. The Fire Chief was concerned about having to haul equipment a long way. He showed how this is extended and picked up parking they lost. It will be a paved access point. There is another access drive to a pump station owned by the state, on City of Portland property within the City of South Portland. It currently comes through the buildings, so they felt it important to maintain some access point for ongoing maintenance of the station.

He showed the rain garden where stormwater will be collected and discharged. He showed the existing wetland. There is a slight area where the wetland buffer impact is.

The Metro is looking for a bus stop and the place they were originally looking at is steep so they have relocated it. Part of the agreement is that they provide the pad and the Metro provides the shelter.

He showed the easement for the water line. They are adding a yard hydrant.

PUBLIC HEARING OPEN

Russ Lunt, Brigham St., thinks this is a wonderful project. They came back and accommodated the changes. He is for it; they need affordable housing. He asked if this will affect the schools.

PUBLIC HEARING CLOSED

A. Dowling said Brick Hill students are bused to Brown School. These will be one- and two-bedroom units. He doesn't think there will be many large families. He asked about Card Ct.—will this be signed?

P. Carroll said he's not sure if it will be signed. In working with the Fire Chief, he wanted the lower units to have an address off of Card Ct. The upper five will be addressed off of Lydia Ln.

S. Puleo confirmed that it will be a City sign. He said typically once this is approved and the subdivision is recorded, their team assigns addresses and unit numbers. The address for the entrance will be 15 Card Ct. and 30 Lydia Ln. Now it is 20 Lydia Ln. For it to be subdivided, there needs to be a designated City address. One way or another, you will see Card Ct.

A. Dowling asked what they get for just shy of \$11,000 for the intersection. **T. Haeuser** said it's a payback routine.

A. Dowling confirmed that when it says "for signal improvements," it's speaking to improvements already made. **T. Haeuser** said yes.

A. Dowling asked if the applicant wants to add additional dumpsters for recycling, would they required to come back to the Board considering they would need to eliminate parking?

T. Haeuser said it's a de minimis change for making a change to spaces. Adding a dumpster without changes, de minimis isn't needed. They probably couldn't eliminate spaces, though.

S. Puleo said they would have to take up green space.

K. Carr asked if there is there something to limit access on the road to the pump station.

P. Carroll said there's not a gate there currently. They are assuming it will be paved on their property. They hadn't intended to add a gate, it's an internal connection within the project and they don't see public coming there. They could change it if needed, but he has never seen a pedestrian or vehicle there.

K. Phillips has no concerns. She thinks it's a wonderful project. She's glad to hear there is green space.

T. Neff asked about the status of the financial capacity.

S. Puleo said based on Corporation Counsel, they see it as a collaborative support letter but not a commitment, which is what they like to see.

K. Bunker said that it said Bangor Savings, but they have an updated letter from NBT Bank. He confirmed that they want a bank commitment letter. **S. Puleo** said yes.

K. Bunker said they are in the appraisal process and explained how the financial process works. They hope to be in the ground in a month and expect a commitment letter in two or three weeks. They are well underway with financing.

L. Boudreau said they've seen the project many times. She is set with the project and is glad to hear it will start as soon as Halloween. She's sure people will be looking to rent soon.

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.