

CITY OF SOUTH PORTLAND

Name of Body:
Minutes for Meeting of:
Meeting Begins:
Meeting Location:

Planning Board
November 21, 2017
7:00 p.m.
Council Chambers, City Hall

MINUTES

Members Present

Kevin Carr, Chairperson
William Laidley
Adrian Dowling
Leslie Dillon
Katherine Gatti
Mary DeRose
Linda Boudreau

Staff Present

Tex Haeuser, Planning & Develop. Director

Absent

Steve Puleo, Community Planner

Pledge of Allegiance

Chairperson Carr 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 October 24, 2017, Planning Board minutes

W. Laidley motioned to approve the October 24, 2017, Planning Board minutes. A. Dowling seconded; (7-0).

Item #2. Consent Calendar

No items

Item #3. PUBLIC HEARING – Amended Site Plan Review — Addition of a Sound Wall — 74 Running Hill Road — Cameron General Contractors and RLC Portland Retirement Community, LLC – FINDINGS

Cameron General Contractors and RLC Portland Retirement Community, LLC are requesting an amended site plan approval to construct a sound wall at the Sable Lodge retirement community at 74 Running Hill Road. The amendment consists of the installation of a noise barrier along the common easterly property line of the site with the Maine Turnpike Authority to minimize the level of traffic noise at the facility. The barrier is proposed to be approximately 500 feet in length and will be 12 feet high. The parcel is further identified as Assessor’s Tax Map 73, Lot 1B, located within the Suburban Commercial District (CS)

zoning district.

Public hearing notices were mailed on November 9, 2017, to the 18 property owners within 500 feet of the proposed project and the applicant, and were sent via email to the Conservation Commission, Planning Board, and City Council.

T. Haeuser introduced the item and showed the location on a map. He explained that Code Enforcement agreed this is a structure and not a fence, so it is allowed to be 12 feet high. It will be constructed of wood posts set in concrete piers and tongue-in-groove boards. The installation location was revised in order to not impact a South Portland drainage easement. Landscaping is proposed to augment the barrier, specifically via the installation of extensive landscaping on the facility side of the barrier and the retention of existing vegetation on the turnpike side.

He explained that since this is an amendment for a very specific item, regular site plan elements such as traffic are not applicable. They do not anticipate nuisances and there is sufficient legal, technical, and financial capacity. Staff recommendation is for approval. There are no waivers and he reviewed the conditions. He showed the previously approved site plan and photo simulations of the wall.

PUBLIC HEARING OPEN

Will Conway, Sebago Technics, introduced himself and stated that he can answer any questions the Board has.

L. Boudreau asked about the installation of a third fire hydrant as stated in a letter dated August 11th. This is the only mention of it and she wonders what happened.

W. Conway said it has been installed.

L. Boudreau asked if it needs to be approved. **T. Haeuser** said it should be included in the motion.

W. Laidley asked the applicant if there were any decibel measurements made for this situation or if the wall is comfort for residents.

W. Conway said it is for comfort. Executives did not think what was originally designed was sufficient after visiting and hearing the noise.

A. Dowling asked to go back to the photo simulation of the wall. He wondered if what is shown is the side the residents or turnpike will see. **W. Conway** said they are equivalent.

A. Dowling asked about landscaping on the sides. **W. Conway** said they will landscape the facility side and vegetation on the turnpike side will remain. **A. Dowling** asked because services like this are magnets for spray paint.

T. Haeuser suggested timely cleanup of graffiti on the sound wall be one of the conditions.

A. Dowling asked if they will own it and maintain it. **W. Conway** said yes, it's on their property. He also stated that there is no issue with the condition.

W. Laidley asked about rules for this—can he put one in his yard?

T. Haeuser said he would have to come to the Planning Board. **K. Carr** noted that there were similar

concerns when looking at solar.

K. Gatti asked how they decided on that design. **W. Conway** said they've had experience with this type of wall and it is an attractive, cost effective solution.

T. Haeuser read aloud an email from Adam Wolf dated November 18. He opposes the sound barrier for a number of reasons. He stated it the applicant should have known this would be an issue when looking at the site, that billboards aren't allowed in Maine and this is bigger and uglier, and that Maine is known for nice views and this is uninviting.

PUBLIC HEARING CLOSED

L. Boudreau motioned to approve the amended site plan application of Cameron General Contractors dated August 18, 2017, and drawings August 11, 2017, through October 25, 2017, for a sound wall and installation of a third fire hydrant and associated six-inch water service located past the eastern edge of Parking Garage B located at 74 Running Hill Road as follows:

CONDITIONS

- 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 and post the necessary performance guarantee(s) in such amount(s) as established by the City.**
- 3. The applicant is responsible for timely cleanup of the sound wall should graffiti happen.**

W. Laidley seconded; (7-0).

FINDINGS

W. Laidley motioned to accept the findings. **L. Boudreau** seconded; (7-0).

Item #4. PUBLIC HEARING – Special Exception Request — Auction House and Associated Facilities — 312 Gannett Drive — Eastern Auction Partners, LLC – FINDINGS

Eastern Auction Partners, LLC is requesting a special exception use approval to create an auction house/warehouse operation in a new building located at 312 Gannett Drive. The building is Unit #8 of the Windward Circle Business Park. The applicant is a fine art auction house that operates primarily online with a few onsite live auction events. The parcel is further identified as Assessor's Map 85, Lot 14 within the Light Industrial (IL) District.

Public hearing notices were mailed on November 9, 2017, to the 16 property owners within 500 feet of the proposed project, the applicant and were sent via email to the Conservation Commission, Planning Board, and City Council.

T. Haeuser introduced the item and showed its location on the map. It is a relatively new building that exists and this is a use going into it. The onsite auction may occur two or three times a year and an assembly of 50 persons may attend. The building square footage is 5,300 SF in which the applicant intends to occupancy 4,100 SF for warehousing and 1,100 SF for office space. The remaining area of the building is bathroom space and office supply storage.

He explained that there are two parts to the special exception request: one for storage and distribution of fine art under Light Industrial Special Exceptions Section 27-903(b) Warehousing and distribution facilities and another for the auction activity under Section 27-903(g) Retail trade, ancillary to and located in a structure housing permitted activities or special exception (a) through (f). Included in the memo are the detailed explanations from the applicant.

He also explained that the primary standard for special exceptions is in Section 27-1405, which he read and stated that there is no indication in the application that the proposed fine arts gallery and auction house will have greater adverse impacts than would be typical for such a use located in this area.

Windward Development is the owner and they provided a letter that was satisfactory to Corporation Counsel to make this application. They also have the seal of approval from the Secretary of State's office. There was an email comment from Police with concern of parking spaces, but since it's been previously approved it is okay. The use is in line with anticipated uses when Unit #8 was approved by the Board but it would make sense to ask the applicant about the adequacy of parking for the new type of use.

Staff recommendation is for approval of the special exception with the standard condition and payment of fees condition.

PUBLIC HEARING OPEN

William Milliken, Eastern Auction Partners, introduced himself. He stated that there aren't a lot of businesses like this around; they are similar to a Sotheby's or Christie's but don't see \$4 million Da Vinci's. He has worked here for 25 years. They opened in the 1980's as a gallery in the Old Port. They sold the gallery and began doing auctions as a virtual business. Paintings were stored in storage lockers and they rented the Holiday Inn ballroom for a day or two of auctioning. The first auction they had off of the peninsula was in the Pierce Furniture building in Scarborough, which worked well. Things have changed since they opened and business has been more internet-based. However, there is office-intensive activity that involves contracts, advertising, and auction sites with formatting demands. They have buyers from all over the country and world. The office operation works full time but is one or two people, so there is very little impact on traffic. Traffic would be different for an event, but in the past five to ten years attendance has dwindled and been replaced with online and telephone bidders. While there is onsite activity, it starts at 6:00 p.m. and runs until around 11:00 p.m. He stated that Ed Rowe owns nearby lots that can be used for overflow and is in attendance to answer any questions. The other part of the special exception is warehousing; there are paintings coming in that take a couple months and come in bunches, so it is typically a UPS truck once a day. He noted that they have to install sprinklers as part of their insurance and lease; the building did not have sprinklers before and they are improving from the last special exception.

Russ Lunt, Brigham St., said this is an interesting application for a building. It is an excellent thing and he's 100% for it.

L. Boudreau said it seems cut and dry. The use, while special exception, is appropriate. She believes the impact will be minimal. Anything happening sounds like evening activities and she doesn't see any conflict. She is ready to support it.

A. Dowling said this is a great addition to the City. He is thrilled any time sprinklers will be added. He is happy it's coming to South Portland and his district.

W. Milliken said the previous owners never held the auction off the peninsula. It was a risk to have it in the Roundwood development in Scarborough and it worked out well. This building has been built for the previous special exception but for them it works perfectly—there is a lot of space and high ceilings. The location is close to highways and airport, and they have some celebrities come. The business has been a fixture in Portland since the 1980's.

PUBLIC HEARING CLOSED

A. Dowling motioned to approve the special exception application of Eastern Auction Partners, LLC dated September 21, 2017, for a fine arts auction house and associated facilities located at 312 Gannett Drive as follows:

CONDITIONS

- 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 and post the necessary performance guarantee(s) in such amount(s) as established by the City.**

K. Gatti seconded; (7-0).

FINDINGS

L. Boudreau motioned to accept the findings. **W. Laidley** seconded; (7-0).

Item #5. PUBLIC HEARING – Special Exception Request—Accessory Dwelling Unit—142 Massachusetts Avenue— Jessica and Wayne Nason – FINDINGS

Julien Jalbert is requesting special exception approval for an accessory dwelling unit (ADU) that would be part of a single-family home at 142 Massachusetts Avenue that he is purchasing from Jessica and Wayne Nason. The ADU would be 419 sf in size, or 19.5% of the area of the home. The parcel is further identified as Assessor's Tax Map 78, Lot 87 within the Residential A zoning district.

Public hearing notices were mailed on November 13, 2017, to the 71 property owners within 500 feet of the proposed project, the applicant, and were sent via email to the Conservation Commission, Planning Board, and City Council.

T. Haeuser introduced the item and showed the location on a map. He showed street view and photos of the home, along with plans. He stated that this seemed like a straightforward ADU application.

There are no additional utilities and adequate parking. The applicant has submitted the Purchase & Sale

agreement and Corporation Counsel found it sufficient. The applicant understands the requirement that the owner must live in either the principal dwelling unit or in the ADU and that both units cannot be rented at the same time. Staff recommendation is for approval with the standard condition and the ADU condition of having the Certificate of Approval recorded at Cumberland County Registry of Deeds.

PUBLIC HEARING OPEN

Julien Jalbert, 142 Massachusetts Ave., introduced himself and stated that their closing is tomorrow. He is an architect at the Knickerbocker Group, which has a satellite office in Portland. He, his wife, and son want to relocate and they are hoping for additional income from the ADU so that his wife can stay home with their son.

L. Boudreau asked if they can assume it is existing and only being approved for mortgage reasons. **T. Haeuser** isn't sure. **L. Boudreau** asked if the ADU is fully constructed.

J. Jalbert said it's not built as such. Their friend owns property and their understanding is that the previous owner started a conversion without approvals. What exists is a half-constructed dwelling area and their intent is to follow through. He doesn't believe it's been accepted to be an ADU.

L. Boudreau said most ADUs they've seen are connected to the main home with an entrance that brings the two together. In the plans, it looks like the existing door between main house and ADU will be closed off. She's not sure what the ADU regulations say but this would make it unique and maybe not in compliance.

T. Haeuser said he doesn't think there is a requirement for a connection between units. They have run into issues before with the connection and if it's counted towards the ADU. The main issue is adequate egress from ADU and he thinks there would be.

J. Jalbert said there is an existing door and he intends to infill. The intent is to leave the units connected but provide privacy. They share a mudroom directly off the back of the home and the ADU has access to the basement. However, they are willing to accommodate keeping the door if need be.

L. Boudreau said the mudroom is the small square between the ADU and house. It looks like the door being closed off is the one where they're putting appliances. **J. Jalbert** said yes but he could reconfigure if needed to keep the door.

L. Boudreau showed on the plan where the door would be closed off and the mudroom is located.

K. Carr is confused because in his mind, this is a more "pure" ADU in that there's no sharing of space. There is no opportunity to agonize over half of the mudroom counting towards the ADU or primary residence. He thinks it's ideal.

L. Boudreau asked because they haven't seen ones like this. They have always seen the connection, right or wrong. She is questioning if it meets the ordinances.

T. Haeuser said it is atypical but he doesn't think it's in violation of the ordinance.

K. Gatti read Section 27-1578 and stated that it doesn't seem that it is in violation. In terms of entrances, she thinks its ok.

L. Dillon asked what type of rental they anticipate. **J. Jalbert** said they're hoping for a young

professional or medical student. They would like someone who will be quiet and respectful of the neighborhood.

PUBLIC HEARING CLOSED

A. Dowling motioned to approve the special exception ADU application of **Julien Jalbert** dated ~~September~~ **November 27, 2017**, for an accessory dwelling unit located at 142 Massachusetts Avenue as follows:

CONDITIONS

- 1. Planning Board Regulation #5, standard condition of approval, as read by the Chair at the opening of the meeting.**
- 2. The Planning & Development Director shall provide a Certificate of Approval to the applicant. This Certificate of Approval must be recorded by the applicant in the Cumberland County Registry of Deeds. A copy of the Certificate of Approval, complete with the Registry's stamp, must be returned within ninety (90) days to the Planning & Development Director. Upon receipt of the Certificate of Approval, the Planning & Development Department shall accept applicable permits for the creation of the accessory dwelling unit.**

W. Laidley seconded.

T. Haeuser noted that the November date in the motion should be corrected to September.

Vote (7-0).

FINDINGS

K. Carr noted that Condition #2 in the findings was not in the motion and is not related to this project. It can be removed and Condition #3 should be relabeled #2.

L. Dillon noted that "identified" is spelled incorrectly in Condition #1 and should be corrected.

L. Dillon motioned to accept the findings. **K. Gatti** seconded; (7-0).

Item #6. PUBLIC HEARING – Site Plan Review — Retail Building — 55 Maine Mall Road — KTJ307, LLC – FINDINGS

KTJ 307, LLC is requesting a site plan approval to construct new Retail Store located at 55 Maine Mall Road. The applicant is proposing to construct a 12,950 SF building with 69 parking spaces on the site. The property is further identified as Assessor's Map 47, Lot 1, located within the Central and Regional Commercial (CCR) District.

Public hearing notices were mailed on November 9, 2017, to the 14 property owners within 500 feet of the proposed project, the applicant and were sent via email to the Conservation Commission, Planning Board, and City Council.

T. Haeuser introduced the item and showed the location on a map. He explained that an additional parking area of 38 spaces is being proposed as Phase 2 on a lease portion of land abutting the site. The property is owned by the City of Portland and used by the Jetport with one of the runway approaches. Without approval from Portland yet, only Phase 1 is currently under consideration. time. Phase 2 will require a separate, amended site plan approval by the Planning Board sometime in the future.

He noted that at the bottom of the first page of the memo, under Project Data, there is a 5% parking lot landscape requirement and only 4.5% is indicated. He believes the applicant did not calculate the way the City asks. When they do so, it comes out to be more than required.

A traffic study was done in August 2017 and it was determined that the use would generate 38 vehicle trips during the weekday PM peak-hour and 48 trips during the Saturday midday peak-hour. The project does not require a Traffic Movement Permit from the Maine Department of Transportation. The traffic study showed that traffic generated by the proposed project will not have a significant impact on motorist delays or vehicle queuing over anticipated future conditions without the project at all study intersections. In addition, lines of sight to and from the project driveway intersections with Maine Mall Road were found to exceed the required minimum distance for the intersections to function in a safe and efficient manner based on the appropriate approach speed along the intersecting roadway.

Access to will be from Maine Mall Road. He showed the layout plan and explained that a two-way, 30' drive will be located across from Darling Avenue and a one-way out drive would serve the northeastern end of the property. They meet parking standards for zoning.

In response to Fire Department comments, a fire lane has been designated. He reviewed the Acting Deputy Fire Chief's comments, stating that his "preference is this northern curbing to be cut back as much as possible, softened if you will, to be more accommodating for large emergency vehicles to utilize this exit as an entrance if necessary."

He reviewed utilities, which will be underground. The Fire Department requested an additional hydrant and it is shown on the plans. The applicant will connect to the collection system via a force main to an existing sewer manhole located on Darling Avenue. A low pressure sewer system is being considered. A "Capacity to Service" letter is pending from the Director of Water Resource Protection.

He reviewed stormwater management, explaining that the parcel is located within the Long Creek Watershed Management District (LCWMD). Approximately twenty percent of the existing site drains to the southwest into the Long Creek – Main Branch. The remainder of the site is conveyed to the northeast into the Long Creek – North Branch. The site will be mostly impervious and will utilize three stormwater detention BMPs. The site will exceed the treatment requirements and will meet runoff rate requirements for the 2, 10 and 25- year storm events. The City's requirements for a Post-Construction Stormwater Management Plan will be met. There is an unknown about what responsibilities will be handled by the LCWMD and what will be handled by the applicant. He reviewed the peer review engineer's comments and recommendation that "that the responsibility for maintenance and reporting remain with the applicant until such time as LCWMD assumes responsibility for maintenance, at which time the applicant may submit a de minimus amendment request to revise the drainage maintenance agreement once an agreement is in place." He also explained that the peer review engineer identified a problem in that there is unprotected slope immediately below the rip rap apron for the detention area outfall at the southwest corner of the site. Any erosion of this area or associated impacts will be the responsibility of the applicant to address.

The applicant has provided evidence of having obtained from the Maine DEP a Chapter 500 Stormwater Management permit. The peer review engineer stated that the submitted draft of the stormwater maintenance agreement does not reference the reporting requirements for projects subject to a Post

Construction Stormwater Management Plan. A satisfactory erosion and sedimentation control program proposal is submitted. He noted that the wetland impact compensation fee of \$88 can be removed.

He reviewed landscaping and lighting fixtures and Legal, Technical, and Financial Capability. Additionally, the applicant provided a Determination of No Hazard to Air Navigation. The applicant is requesting a waiver of Section 27-1428 (a) Time Limitations, for the opportunity to have an extension of the time limit for achieving substantial start for the project. He stated that the date should read “November 21, 2019.”

Staff recommendation is for approval. He reviewed the conditions, explaining that #5 adds the proposal from the peer review engineer.

PUBLIC HEARING OPEN

Jay Moore, KTJ 307, introduced himself and stated that he appreciates everyone’s time who has worked on this. He can answer any questions from the Board. They have been in touch with the Fire Department and will alter the entrance however needed. One concern is that by making it too wide, customers may try to take a left. They will work with staff.

Russ Lunt, Brigham St., another wonderful project from the City. He’s gone by this land; neat to find these places. He’s for it.

Frank Langlois congratulated everyone on the material. He thinks it is wonderful how the information is presented and the details gone through.

L. Boudreau was also impressed with the site plans. The size of it was impressive as well as the level of details in individual plans. Although they love all other projects that have come forward, this is a \$3 million plus investment and is another good thing for the City. She doesn’t have any real questions.

M. DeRose said it’s an impressive pile of work. As a landscape historian, she likes the design of the building. It will be an asset to the area.

A. Dowling was also impressed by the detail and scope of site plan and all materials received. He was not familiar with the company beforehand but went on their website and it seems like a store he will enjoy. It looks like they will be a nice addition to the community. If anyone tells you South Portland is not business-friendly, that is fake news. They’re building in the City and they didn’t need to beg or plead with them. He welcomes them to South Portland.

PUBLIC HEARING CLOSED

K. Gatti motioned to approve the waiver requests of Section 27-1428 (a), Time Limitations, for the opportunity to have an 18-month extension to the approval period for the start of construction, expiring on November 21, 2019 and

Section 27-1526(e)(1), Freshwater Wetlands, to enable the payment of a compensation fee in lieu of maintaining a 25-foot buffer around a designated wetland;
to approve the site plan application of KTJ 307, LLC dated September 14, 2017, through November 14, 2017, with drawings September 15, 2017, through November 14, 2017, for a retail building located at 55 Maine Mall Road as follows:

CONDITIONS

- 1. 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 change 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.**
- 2. Prior to scheduling a pre-construction meeting with the City, the applicant shall pay all outstanding review escrow account fees and post the necessary performance guarantee(s) in such amount(s) as established by the City.**
- 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. However, the stormwater maintenance agreement draft shall first be revised to reference the reporting requirements for projects subject to a Post Construction Stormwater Management Plan.**
- 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.**

In terms of the role the Long Creek Watershed Management District (LCWMD) may eventually play in the maintenance of the stormwater management system, the responsibility

for maintenance and reporting shall remain with the applicant until such time as LCWMD assumes responsibility for maintenance, at which time the applicant may submit a de minimus amendment request to revise the drainage maintenance agreement once an agreement is in place.

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. This approval does not include improvements on the abutting lot owned by the City of Portland, otherwise described in the applicant's submissions as "Phase II." Any expansion of the project onto an abutting property will require an amended site plan approval from the Planning Board.
8. Prior to obtaining a building permit, the applicant shall submit a de minimis change application to the Planning & Development Director that includes adjustments to the north exit, for improved emergency vehicle access, satisfactory to the Fire Department's designated reviewer.
9. Any erosion of the unprotected slope immediately below the rip rap apron for the detention area outfall at the southwest corner of the site will be the responsibility of the applicant to address.
10. Prior to obtaining a building permit, the applicant shall submit to the Planning & Development Director the sum of \$14,136 in compensation for wetland and upland buffer impacts.
11. Prior to obtaining a building permit, the applicant shall provide evidence to the Planning & Development Director that the Director of Water Resource Protection has determined that the City's sanitary and stormwater systems have sufficient capacity to accommodate the proposed project.
12. The area between the Maine Mall Road water and sewer utility excavations shall be ~~milled~~ rebuilt so that pavement restoration is unified.

L. Boudreau seconded; (7-0).

FINDINGS

The applicant requested that in Condition #12, "milled" be changed to "rebuilt."

A. Dowling motioned to accept the findings with the change to replace "milled" with "rebuilt" in Condition #12. L. Boudreau seconded; (7-0).

Item #7. PUBLIC HEARING – Zoning Text Amendment-- Addition of Marijuana Uses to the Four Most Recently Created Zoning Districts

The Planning Board will make a recommendation to the City Council on proposed amendments to the Zoning Ordinance regarding adult marijuana establishments and controlled environment agriculture in the recently created West End Residential, West End Neighborhood Center, Western Avenue Commercial Corridor and Meetinghouse Hill Community Commercial zoning districts.

Notice of the Planning Board's November 21st hearing on these zoning amendments appeared in legal

advertisements in the Portland Press Herald on November 8th and 14th, 2017. Notices were also posted on the City's website, at City Hall, and at the Public Libraries. In addition, notices were emailed to the Conservation Commission, Planning Board, and City Council.

T. Haeuser introduced the item and stated that City Council gave final approval on the zoning amendments permitting adult marijuana establishments and on licensing amendments that will help regulate them on November 6th. However, the marijuana zoning ordinance did not include four new zoning districts: the West End Residential District (WR), West End Neighborhood Center District (WNC), Western Avenue Commercial Corridor District (WACC), and Meetinghouse Hill Community Commercial (MHCC). The first three are new zones approved as part of the West End Master Plan process and the last was for the block along Cottage Road approaching Pillsbury.

To be complete, there is a proposed addendum, in a way, to update marijuana zoning by adding marijuana uses and controlled environment agriculture in these four districts. The zones are in Mixed-Use Residential zoning districts, so they will add marijuana testing facilities as permitted uses and controlled environment agriculture, marijuana products manufacturing facilities, and marijuana stores as special exceptions. This matches the framework of the adopted marijuana ordinance.

The Comprehensive Plan has no specific guidance either for or against adult use/retail marijuana.

Council gave first reading approval to these amendments on November 6th and they are scheduled for final action on December 4th. The Planning Board is asked to make a recommendation to Council. Staff recommendation is in favor for the zoning amendments to be complete.

PUBLIC HEARING OPEN

Russ Lunt, Brigham St., said they have done a wonderful job done with these. He thinks it's great to make them special exceptions. He's against it but it is here.

Frank Bathe, 446 Western Ave., wondered if this is zoned for his area because he is in the business of changing convenience stores into natural food stores, and the hemp business could be part of that. He wondered if there's anything he could do tonight or if it's down the line.

K. Carr said tonight is about the inclusion of four new districts in the marijuana ordinances. His plaza is within these.

T. Haeuser showed this on the map. He said Mr. Bathe is in the CS zone and that will allow a number of marijuana establishments. Ultimately, nothing will get underway until the state completes their part.

M. DeRose asked what is happening with medical marijuana.

T. Haeuser said medical was not the subject of this current zoning effort. They touched on it in the course of work because there's a phenomenon of medical marijuana cultivation occurring in warehouses similar to what's coming for adult cultivation. They also potentially have a zone change application by private person to enable a storefront medical marijuana facility. It would be like a medical marijuana dispensary but without cultivation and not as large so that the caregiver could see clients and provide information and product in a professional office setting versus someone's house. This type of ordinance has been accepted in Brunswick and a couple other places. What will happen is this person will propose it for the zone their property is in and that will bring the question of whether or not Council wants to extend to other zones.

M. DeRose asked what rules will apply—medical marijuana or recreational. One is draconian and one is less so. **T. Haeuser** isn't sure at this point.

M. DeRose said it's an issue that has to be addressed. Medical marijuana people are up in arms because the state has become stricter. It seems that there are parallel universes.

T. Haeuser said when they put the ordinance together, he combined medical and recreational marijuana into one performance standard section. Without the work on medical, he had it leave it as it was before. He thinks that's the other shoe to drop on this issue.

L. Boudreau said that in an effort to be consistent with her last vote, she will vote against this. She thinks South Portland is being a bit cavalier. Having been on the Board for years through controversial issues, as much as the City voted for this, being able to participate in the use of marijuana legally is different than having it within 1000 or 500 feet of your home. She thinks many people will be surprised when that takes place. She will vote against this and she realizes Council has approved it all anyway.

PUBLIC HEARING CLOSED

A. Dowling motioned that the Planning Board make a positive recommendation to the City Council that they adopt the proposed marijuana zoning amendments as contained in Ordinance #10-17/18. **W. Laidley** seconded; (6-1) (**L. Boudreau** opposed).

Item #8. Public Comment on Items Not on the Agenda

Russ Lunt, Brigham St., thought there were two unique projects—the auction house and Duluth Trading. They find little spots and develop—he's all for new businesses coming. He asked about progress on the old Griffin Club.

T. Haeuser said an application is being worked on; it's a subdivision because there would be five condos over the restaurant/bar. They don't have an application yet but it's been discussed publically at the latest Comprehensive Plan Implementation Committee meeting. They will have to demolish the existing club as it's in rough shape. Their problem, like other properties in the area, is the small size of the lot for parking. There is a proposal to make the distance within which public parking facilities can be counted towards non-residential off-street parking requirements the same as what exists for private leasing of spaces offsite. Private leasing spaces can be within 1500 feet and 500 feet for public. This would make the Griffin Club redevelopment able to count the Waterman Drive parking that the City built for their non-residential part.

Item #9. Comments from the Planning Board and Director of Planning & Development

T. Haeuser said that as part of the Cottage Road traffic and safety project, there will be installation of lane delineation sticks by the Bicycle Coalition of Maine. These will mimic bump outs to give people a feel for what the traffic calming solution would be like. They will take speed tests to see if there's a difference. Curb extensions have been chosen by the group as the main improvement. Secondly, he has not had a chance to do any preparation for their mini-retreat on November 28th. They can either pull something together for next week or postpone, hopefully for when Mr. Dowling's replacement is on board.

K. Carr said beyond having Mr. Dowling's replacement, it's also important to have Mr. Puleo in attendance. He would hate to add an additional burden on Mr. Haeuser. Unless they feel passionately, he would postpone.

The Board agreed to postpone the retreat.

K. Carr mentioned that he is encouraged by the work being done on Cottage Road's traffic and safety and the level of engagement and involvement.

T. Haeuser said there is a website under the Planning Department page to get information and send him comments.

L. Dillon said the short term rental conversation workshopped by City Council last week is a big conversation that will be in front of the Board. There were 50 people and 32 comments. There's a lot that the community has to say. She encourages everyone to listen to that broadcast.

T. Haeuser said as initially proposed, they've kept it out of the zoning ordinance. Ultimately, he doesn't see how it can remain that way. He thinks it will be at least partially in zoning.

W. Laidley hoped most members saw the article in the *Press Herald* that looked at roundabouts versus rotaries. It would be great if Planning put out different topical analyses like that for the public to see pros and cons of various issues. He thinks there's a real mission for Planning to get information out to the public in ordinary language.

L. Boudreau said the City is criticized for being slow on moving and actions. Three weeks or so there was a Broadway corridor meeting and the biggest issue was pedestrians getting across Broadway. Within two weeks there were utility poles for electric flashers. It's coming quicker than she thought and she was overjoyed. She asks the City and police drive on streets and look for signs. If there's a tree covering them, they do no good. She encourages the public to see if they have trees infringing on the sidewalks. People need to clear obstacles.

K. Carr formally congratulated Mr. Dowling on his election to the City Council and thanked him for his service on the Board. **A. Dowling** thanked everyone on the Board separately.

Item #10. Adjournment

9:15 pm L. Boudreau motioned to adjourn. A. Dowling seconded; (7-0).

Respectfully submitted,
Dana Bettez 11/22/2017

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.